

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

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CWP No.20283 of 2015

Date of decision: 15.11.2017

Sarjeet Singh

....Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.R.K.Malik, Sr.Advocate
with Mr.Bhupinder Malik , Advocate, for the petitioner.

Ms.Shruti Jain Goyal, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Petitioner seeks writ in the nature of mandamus, to consider his claim for appointment as Driver (Heavy Transport Vehicle) from the date the candidates lower in merit have been appointed.

It is the case of the petitioner that vide advertisement No.01/2012, 1153 posts of Drivers (Heavy Transport Vehicle) were advertised and the petitioner, who belongs to BC-B category, had got selected but was not allowed to join despite the fact that many candidates were allowed to join in the month of January, 2014. The reason for not allowing him to join is that his Driving Licence had initially been issued from the Licencing Authority, Faridabad bearing No.3604/RTA/Faridabad in 1992. The same had been renewed, thereafter, by the RTA, Rewari from 2001 onwards. On account of the original record not being available with the initial issuing authority at Faridabad, the same could not be verified.

It is the case of the State that prior to 30.07.1993, the SDO (Civil) was the Licencing Authority under the Punjab Motor Vehicles Rules, 1940 (Annexure R-2) and the licence could not be issued by the Secretary RTA,

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Faridabad as it was not the Licencing Authority. The same could not be verified on account of fact that the record had been destroyed due to the fire and therefore, the genuineness of the Driving Licence, as such, has been questioned.

A perusal of report dated 11.02.2014 (Annexure P-1) would go on to show that the RTA, Rewari had written to respondent No.3 regarding the information sought about the Driving Licence as it had initially been renewed by the RTA, Faridabad in 1995 and thereafter, in the year 2001 by the Authority at Rewari. The addition of 'Heavy Transport Vehicles' was made in the year 2004 and thereafter, there were subsequent renewal in the years 2007 and 2013 by the said Authority. The Driving Licence was, admittedly, valid from 22.11.2013 to 07.11.2016. During the effort of verification, it was also noticed that the record had been burnt due to fire in the office on 11.05.2002 at Faridabad and fact of the FIR was lodged was also mentioned. A perusal of the communication dated 15.07.2014 (Annexure P-3) between respondent No.3 and the Director General, would also go on to show that it is not disputed that the renewal would only have been if the NOC was got from the Licencing Authority at Faridabad. The RTA at Rewari also could not locate the NOC and therefore, even the favourable consideration had been forwarded by respondent No.3, but on account of no response, the present writ petition had to be filed.

Keeping in view the above, this Court is of the opinion that once the licence, as such, had been renewed by the competent authority at Rewari in the year 2001, it would have been on the basis of following the requisite procedure and getting all the information from the issuing authority at Faridabad. Only on account of the fact that the record was burnt at Faridabad, for which an FIR had

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also been lodged, the petitioner cannot be put to a disadvantage and be denied public employment, as undisputedly, the endorsement of 'Heavy Transport Vehicles' has also been entered in the Driving Licence in the year 2004 at Rewari. The fact of not tracing the NOC at Rewari also, cannot prejudice the petitioner, as it is for the State to preserve its records. Accordingly, keeping in view these cumulative facts that there was regular renewals at Rewari, this Court is of the opinion that the denial of appointment is not justified.

The argument raised by the State Counsel that the SDO was the competent authority to issue the Driving Licence, would also fall into insignificance, keeping in view the fact that there were renewals by the RTA, Rewari on various occasions including the endorsement of 'Heavy Transport Vehicle' in the year 2004 and therefore, it is estopped from taking the plea that the license was not issued by the competent authority.

Accordingly, in view of the above, the present writ petition is allowed. Respondents are directed to issue appointment letter to the petitioner. The petitioner will also be entitled to the benefit of seniority and all consequential benefits, to the extent of increments, as per his merit. However, since he had not worked for the said period, he would not be entitled for any pay for the said period. Needful be done within a period of 2 months.

15.11.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*