

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

CWP No. 24287 of 2017
Date of decision: 27.10.2017

Naveen and othersPetitioner(s)

Versus

State of Haryana and others ...Respondent(s)

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

Present: Mr. Ramesh Sharma, Advocate,
for the petitioners.

G.S.SANDHAWALIA, J. (Oral)

The petitioners seek quashing of the action of the respondents in pursuance of the advertisement no. 10 dated 24.11.2015 (Annexure P-2) of respondent no. 2 and not selecting the outstanding sports persons and only calling simple sports participants for interview for the post of clerks against the Outstanding Sports Persons (OSP) (General Category) and the subsequent corrigendum issued dated 18.05.2016 (Annexure P-9).

The grouse of the petitioners is that the petitioners are better placed as per the grading certificates granted in view of the policy dated 30.11.1993 (Annexure P-1) reserving seats for OSP and, therefore, should have been called for the purpose of interview on the strength of the grading certificates rather than on the strength of the marks obtained in the written test.

It is not disputed that vide notice dated 09.10.2017 (Annexure P-12), the respondent-Commission has called candidates for scrutiny of documents-cum-interview against the 45 Outstanding Sports Persons (General category) seats, for which the petitioners are also applicants. The

cut off has been provided as 136 marks as per Annexure P-13 which has not been crossed by the petitioners, on the basis of which, they have approached this Court alleging that preference should be firstly given to their achievement and proficiency in sports over and above the merit which they failed to achieve in the written test.

A similar issue came up before this Court in ***CWP No. 25157 of 2014, Ranbir Singh vs. State of Haryana and others*** wherein, a plea had been taken by the State that on account of higher gradation certificates, the candidates had been selected. The petitioner in that case had not been selected against the 12 advertised posts of Forest Guards. The said defence was not accepted by holding that the sports policy never mentioned that academic merit is to be given a go-bye and preference is only to be given on the grading based certificates. The reasoning is as under:-

“After hearing counsel for the parties, this Court is of the opinion that the criteria which has been applied by the respondents to the detriment of the petitioner was without any basis. Admittedly as per advertisement itself for the recruitment of Sports Persons, the selection is to be made as per the sports policy of Haryana Government as reproduced above. Nothing could be pointed out from the policy dated 30.11.1993 (Annexure R/3) that selection as such was not to proceed on merit which had been fixed as per recruitment notice dated 2.12.2013 (Annexure P/3). Annexure R/3 only provides criteria of the grading of certificates of outstanding sports persons who have played from the international level to the district level. In the said instructions it has not been mentioned that the academic merit as such is to be given a go bye and preference is only to the grading based certificate.

Reliance upon Annexures R/1 and R/2 would be of no avail to the State which are regarding the procedure to be followed by the Union of India and as per the advertisement the policy of the State was applicable. Therefore, as per advertisement itself, it is the policy of the State which is to prevail.

*Counsel for the State has brought to the notice of the Court the Division Bench judgment in **Ranbir Singh Vs. Thapar Institute of Engineering & Technology, Patiala and another** 1988 AIR (Punjab) 51 whereby it was held that the merit list prepared by the College is to govern rather than the ranking in the sports. The relevant para nos. 5 to 8 read as under:-*

"5. The question that arises for determination is whether the petitioner is entitled to be admitted to the College in preference to respondent No. 2, on the ground that he possesses higher grade sports certificate, though he ranks lower than the latter in the merit list prepared by the College after giving weightage to them on account of the Sports Certificates.

6. In order to determine the question, it is relevant to read the clause by which weightage is given to candidates holding Sports Certificates for admission in the College against the vacancies reserved for sportsmen. It is as follows ;

"2% seats are reserved for outstanding sportsmen possessing sports gradation certificates A, B, C & D issued by the Department of Sports, Punjab. For purposes of determining the inter se merit of the candidates weightage of 10%, 5%, 3% and 2% marks for A, B, C & D grades respectively would be added to the normalized qualifying marks obtained by the candidates."

7. From a reading of the Clause, it is clear that in order to determine inter se merit of the sportsmen for admission to the College, weightage is given to them by adding 10%, 5%, 3%, and 2% marks on the basis of their Sports Gradation Certificates to normalized qualifying marks. Thus while determining merit of the candidates, benefit of the Sports Gradation Certificates is given to them and on the basis of that merit, they are admitted to the College. The Clause nowhere provides that a sportsman having Higher Grade Sports Certificate is to be preferred for admission to the College to that who holds a Lower Grade Certificate. If that had been the intention of the Government, the instructions would have been couched in a different Language. It is well settled principle of interpretation of statutes that the words in the statutes are given their plain meanings. The duty of the Court is to take the statute as it stands and construe the words in their natural sense. If its language is clear and unambiguous; the Court cannot extend its operation. From a plain reading of the Clause, it cannot be held that sportsmen having Higher Grade Certificates are to be preferred to those who are having Lower Grade Certificates notwithstanding that they are lower in merit in the merit list than the latter.

8. The facts of the case are not disputed. The petitioner, it is true, holds a Higher Grade Certificate than that of respondent No. 2 but he gets 78.21 per cent marks, whereas respondent No. 2 gets 78.77 per cent marks. Thus, he is lower in the merit list, prepared by the College, than respondent No. 2. In view of the aforesaid discussion, we are of the view that he is not entitled to be admitted to the College in preference to respondent No. 2 on the ground that he possesses Higher Grade

Sports Certificate than that of the latter.”

*The view has been upheld by the two Full Bench decisions in **Miss Chetna Sharma Vs. Union Territory, Chandigarh 1992 AIR (Punjab) 109** and **Amardeep Singh Sahota Vs. State of Punjab 1993(2) PLR 212.**”*

Accordingly, the writ petition was allowed and the appointment given to respondent no. 4 was set aside and the petitioner was to be given appointment on account of the merit also.

In similar circumstances, in **CWP No. 1813 of 2011, Kavita Pannu vs. State of Haryana and others** pertaining to the post of Physical Training Instructors who were applicants for Outstanding Sports Persons, a co-ordinate Bench held that it was a policy matter as to how much weightage is to be given for the grading of the certificates and the argument that higher grade certificate holders should be given preference was within the domain of the Government. The relevant portion reads thus:-

“The contention of the counsel for the petitioner that higher grade certificate holders who belong to Outstanding Sports Persons Category, should be preferred over the persons with lower grade certificate, cannot be accepted as it would fall within the domain of the Government as it is a Policy matter as to what and how much weightage has to be given to the grading of the certificates. The only benchmark, which has been laid as far as the Outstanding Sports Persons Category is concerned, was possession of a particular category of certificates which admittedly the petitioner as well as respondents No. 3 and 4 possess. After having achieved their right for consideration under the Outstanding Sports Persons Category thereafter the criteria has been laid down. As far as the academic achievements are concerned, Commission has proceeded to apply the

said criteria uniformly. The criteria, which has been laid down by the Commission, does not suffer from any vice or illegality which would call for any interference by this Court.”

Resultantly, keeping in view the above fact that the Division Bench has already authoritatively opined on the said subject, as noticed above, this Court does not feel it necessary to call upon the respondents and the present writ petition is accordingly dismissed in limine.

27.10.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No