

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7666 of 2015
Date of Decision:-29.03.2017.

Pritam Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Jagjeet Beniwal, Advocate for the petitioner.

Mr. Sushil Gautam, DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has questioned the order dated 11.3.2015 passed by the respondent No.3 vide Annexure P-8 by which his claim for selection and appointment to the post of Forest Guard has been turned down on the ground that he has not produced the Gradation Certificate issued by the Director, Sports Department, Haryana Government on the date of interview and he has produced only provisional certificate issued by the District Sports and Youth Programme Officer (Annexure P-2).

Learned counsel for the petitioner submitted that in the advertisement dated 6.3.2013 certain instructions have been given to the candidates. Insofar as documents to be attached with the application form is concerned, clause iv. reads as under:-

“iv. Attested copy of Sports Gradation Certificate in

case of Outstanding Sports Persons duly issued by the competent authority.”

The petitioner produced the provisional certificate issued by the District Sports and Youth Programme Officer. The same has not been accepted on the score that the petitioner is required to obtain certificate of Outstanding Sports Person from the Director, Sports Department, Haryana Government. It was pointed by learned counsel for the petitioner that instructions to the candidate does not disclose whether the Gradation Certificate is final and so also who are the competent authority to issue Sports Gradation Certificate so as to contend that the petitioner is required to obtain Gradation Certificate from Director, Sports Department Haryana Government. In the absence of instructions to the candidates that they are required to obtain sports Gradation Certificate from the Director, the candidates should know who are all the competent authority. Therefore, the action of the respondents in rejecting the petitioner's claim for Forest Guard post on the ground that Gradation Certificate issued by Director Sports has not been made available on the date of interview is highly arbitrary and illegal.

Per contra learned counsel for the respondents vehemently submitted that competent authority for issuance of Sports Gradation Certificate in case outstanding sports is only the Director, Sports Department. Therefore, the petitioner's claim has been rightly rejected since the petitioner's provisional certificate is issued by the District Sports and Youth Programme Officer. Later on the petitioner has obtained Gradation Certificate from the Director on 26.3.2014. The same cannot be taken into consideration as it is beyond the last date prescribed for the post.

Heard learned counsel for the parties.

Perusal of the candidature instructions, namely, documents to be attached with the application form clause iv. reads as under:-

“iv. Attested copy of Sports Gradation Certificate in case of Outstanding Sports Persons duly issued by the competent authority.”

The selecting authority has not identified who is the competent authority. In the absence of mentioning the competent authority as Director, Sports Department, State of Haryana, candidates are not in a position to know who is the competent authority. At the same time when the petitioner has approached the District Sports and Youth Programme Officer for issuance of Sports Gradation Certificate, the District Sports Youth Programme Officer should have rejected stating that he is not the competent authority and also stating that the competent authority is Director, Sports Department. Further if there is any delay in processing in the Sports Department, petitioner shall not be penalized. Thus, it is beyond the control of the petitioner to obtain Sports Gradation Certificate from the Director, Sports Department, Haryana Government. In view of the facts and circumstances, there is no fault on the part of the petitioner since instructions to the candidates is not crystal clear as to whether competent authority definition is not forthcoming in the advertisement. Therefore, the Annexure P-8 is liable to be set aside and the matter is remanded to the competent authority to reconsider the petitioner's claim for appointment to the post of Forest Guard with reference to the provisional certificate so also the Sports Gradation Certificate issued by the Director subsequent to the last date for submission of application in view of the Supreme Court

decision in **Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board and another 2016(4) SCC 754** decided on 24.2.2016 wherein the Supreme Court has held that if there is any defect in the certificate that could be rectified and if it is rectified at later stage, the same is required to be accepted. The above decision of the Supreme Court may also be taken into consideration for the purpose of reconsidering the petitioner's candidature for the post of Forest Guard. It is also noticed that petitioner is more merited than the last candidate. Having regard to these factual aspects petitioner's name be considered for selection and appointment. The above exercise shall be completed within a period of four months from today.

Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

March 29, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.