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

CWP-7932-2015

Date of decision-25.09.2018

Amandeep Singh

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Anil Rathee, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Respondent No.5 ex parte.

JITENDRA CHAUHAN, J.

Learned counsel for the petitioner, at the very outset, states that he does not press any claim qua respondent No.3, therefore, name of respondent No.3 be deleted from the array of parties. The instant writ petition vide order dated 27.04.2015 was ordered to be dismissed qua respondent Nos.4 and 6.

This writ petition under Articles 226/227 of the Constitution of India has been filed seeking quashing of the selection of respondent Nos.3 to 6 and further issuance of direction to the respondents to select and appoint the petitioner as Driver from the date when respondent Nos.3 to 6 were offered appointment, which now subsists qua respondent No.5 alone.

Vide advertisement No.1/2013 (Annexure P-4) and corrigendum (Annexure P-5) applications were invited for filling up of 6

posts of Driver (General-04, BC-01, Ex- Servicemen-01). The eligibility condition was possession of a matriculation certificate and LMV driving licence with experience of 5 years of driving the Light Motor Vehicles. The driving test was conducted on 30/31.10.2013. Total 20 candidates were called for interview by the Selection Committee. On 12.11.2014, the result was declared and respondent Nos.4 to 6 were declared successful, whereas the petitioner remained unsuccessful.

Learned counsel for the petitioner refers to the list of applicants for the post of Driver (Category – General) Annexure P-12, to contend that respondent No.5 while submitting his application did not annex the experience certificate as had been noticed against the column of 'Experience'. The application form of said candidate was requisitioned wherein two copies of different driving licence were found to be annexed. One driving licence had been shown to be issued by the Licencing Authority, Chandigarh on 28.04.2005 whereas, the other driving licence had been issued by the Licensing Authority, Rupnagar, Punjab on 12.03.2010. It is submitted that none is entitled to have two driving licences at a time. He further states that there is still one vacancy available with the department against which the petitioner, being fully eligible and meritorious, could be adjusted.

On the other hand, learned State counsel submits that at the time of viva-voce, respondent No.5 submitted experience certificate dated 05.04.2013 certifying that the petitioner had worked as a LMV driver for the period commencing from February 2008 to March 2013. The last date for

submission of application was 09.05.2013, therefore, the certificate being valid was considered. As far as the question of possessing two driving licenses by respondent No.5 is concerned, the said fact could not be noticed at the time of scrutiny of documents inadvertently.

I have heard learned counsel for the parties and have gone through the case file.

Vide order dated 27.03.2017, the record pertaining to the selection in question was summoned and perused.

It is to be noticed that as per additional affidavit of Secretary, Subordinate Services Selection Board, Punjab, dated 27.03.2017, the petitioner has obtained 4.33 marks which was below the marks obtained by one Manjinder Singh son of Rajpal Singh whereas one Amrinder Singh son of Darbara Singh who had also secured 4.33 marks was placed higher than the petitioner on account of being older. Further, while appointing the candidates for the post in question i.e. driver, respondent No.5-Sucha Singh was appointed on the said post despite the fact of having two different driving licence. This fact was in the knowledge of the respondent-authority, however, no explanation has come from the State as to why no action was initiated against respondent No.5 in this regard.

However, without advertent to the candidature of respondent No.5, this Court feels that the vacancy available with the respondent-State be offered to the petitioner being fully eligible for the same and having qualified the test(s) conducted for the purpose. Though, there are two more candidates having higher merit than the petitioner but they have chosen not

to assert their right, therefore, cannot be granted any relief.

Thus, in view of the above, this writ petition is allowed with a direction to respondent(s) to issue appointment letter to the petitioner for the post of driver available with the department.

(JITENDRA CHAUHAN)
JUDGE

25.09.2018
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No