

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

CWP No. 6060 of 2019

Date of Decision: 06.03.2019

ANKITA MAHAJAN

....Petitioner

VS.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rohit Ahuja, Advocate,
 for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The question involved in this case is as to whether the hard copy of the application form for taking main written examination by a candidate who had appeared in the preliminary examination, securing more than cut off marks, can be accepted and the candidate can be allowed to take the main written examination if the application form itself is dispatched by the petitioner on the date which was kept as the closing date and there is a delay of one day?

In brief, the Haryana Public Service Commission (for short “the Commission”) had issued an advertisement No. 6 of 2016 dated 20.03.2017 for the purpose of recruitment of Civil Judge (Junior Division) in Haryana Civil Service (Judicial Branch) for the year 2017 for which online applications were invited to fill 109 posts in various categories. The petitioner had applied under the General category and appeared for the preliminary examination held on 22.12.2018. She secured 336 marks whereas the cut-off marks in respect of the general category was fixed at 326.40 marks. Thus, the petitioner was eligible to take the main written examination.

At time of declaration of the result, the Commission has made it clear that

“the application form, duly filled alongwith supporting documents, should reach the Commission’s office through Registered Post/Courier/Personal Delivery by 12.02.2019 positively. Thereafter, no application form will be accepted through any mode and the office will not be responsible for any delay on the part of postal/courier services.”

It is an admitted fact from the evidence that the hard copy of her application form was sent by the Courier Agency on 12.02.2018 which was allegedly booked vide receipt No. 11006665689 and delivered to the Commission’s office on 13.02.2019 i.e. after a delay of one day from the closing date i.e. 12.02.2019. In order to overcome that difficulty, the petitioner has appended a certificate dated 21.02.2019, purported to have been issued by the Courier Agency, in which it is mentioned that the petitioner has booked a parcel in the morning of 08.02.2019 but due to negligence and oversight of the booking agency, the same was booked vide receipt No. 11006665689 dated 12.02.2019.

Learned counsel for the petitioner has submitted that the petitioner was shocked when she found her Roll No. 13164 in the list No. 1, issued on 20.01.2019 pertaining to the candidates whose hard copies for taking the main written examination were received after the closing date. Although, she made a representation also but since it was not answered, therefore, present petition has been filed.

Notice of motion.

On the asking of the Court, Mr. Surender Singh Pannu, DAG, Haryana, Mr. Kanwal Goyal, Mr. Gaurav Chopra, Ms. Gehna Vaishnavi have accepted notice on behalf of the respondents No. 1 to 4 respectively.

Learned counsel for the respondents have submitted that since the evidence on record has been brought by the petitioner herself that the courier was sent on 12.02.2019 which has admittedly been received in the Office of Commission on 13.02.2019, therefore, the entire blame is either upon the petitioner or upon the Courier Agency for which respondents cannot be asked to relax the rules/procedure.

Faced with these arguments, learned counsel for the petitioner has relied upon an order passed by the Hon'ble Supreme Court in the case of **Ashutosh Agnihotri** Vs. **High Court of Madhya Pradesh and Another**; **2017(2) Law Herald (SC) 1701** to contend that in said case also there was a delay of one day in the delivery of the application which has been condoned by the Hon'ble Supreme Court. He has also submitted that this Court had delivered a decision in **CWP No. 2943 of 2019** titled as **Mahipal Singh And Others** V/S **State Of Haryana And Others** on 13.02.2019 in regard to the challenge made to the correctness of the answer key and held that the answer key of one question was incorrect for which equal marks were granted across the board to the candidates. It is submitted that thereafter fresh time was granted for the candidates to submit their application form.

Learned counsel appearing on behalf of the Punjab and Haryana High Court (Respondent No. 3) has submitted that the case of the petitioner is not covered by the decision in the case of *Ashutosh Agnihotri (Supra)* as in that case, last date was 20.01.2017 whereas the application form was sent on 10.01.2017 by Speed Post which got delayed. It is further submitted that the decision rendered by this Court in the case of *Mahipal Singh and Others (Supra)* is also of any kind of help to the petitioner because in that case an opportunity is granted to those candidates who could not have come within

the cut-off zone earlier and had got the chance to appear in the exam after the result is revised.

We have heard learned counsel for the parties and after perusal of the record, are of the considered opinion that there is no merit in the present petition and the same deserves to be dismissed because the petitioner had already been successful for taking the main written examination as she had secured 336 marks and her result was declared on 21.01.2019, therefore, she was given ample time by the Commission to submit the hard copy of her application form upto 12.02.2019. As a matter of fact, the petitioner has got 18 days' time to do the needful but she chose to submit her application form only on 12.02.2019 i.e. the last date and has tried to manage her mistake by obtaining a fake certificate dated 21.02.2019 from the Courier Agency in which it was mentioned that the petitioner has booked a parcel on 08.02.2019 but due to negligence and oversight of their booking agency it was sent only on 12.02.2019.

It is matter of common knowledge that when the courier/assignment is booked, the receipt thereof is issued on the same day. It never happens that some article is booked without any kind of receipt. Even if it is presumed, for the sake of arguments, though not admitted in the present case, that the petitioner had given parcel to the Courier Agency on 08.02.2019, she should have been vigilant enough to obtain the receipt thereof and should have asked the Courier Agency about the delivery of her parcel as she was fully aware that last date was fast approaching. Therefore, it is apparent that the entire exercise is an afterthought of the petitioner for the purpose of overcoming the negligence on her part. Thus, the question

which has been posed in the beginning is answered. Accordingly, the order which is being sought by the petitioner is not granted to her.

In view of the above, we do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

[RAKESH KUMAR JAIN]
JUDGE

March 6, 2019
Ess Kay

[HARNARESH SINGH GILL]
JUDGE

<i>Whether speaking / reasoned</i>	:	Yes	/	No
<i>Whether Reportable</i>	:	Yes	/	No