

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6333-2019

Date of Decision: 11.03.2019

Gurvinder Singh Sidhu

. 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.Gurvinder Singh Sidhu, Advocate,
for the petitioner.

Mr.Surinder Singh Pannu, DAG, Haryana,
for respondents No.1 & 3.

Mr.Kanwal Goyal, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the order of the Haryana Public Service Commission [for short 'the HPSC'] dated 5.3.2019 by which the representation made by him on 25.2.2019 for considering him eligible to take the main written examination in the category of Eligible Sports Persons [ESP] has been declined.

In brief, the HPSC has issued an advertisement No.6/2016 on 20.3.2017 to fill up 109 posts of Civil Judge (Junior Division) in the Haryana Civil Services (Judicial Branch). The said advertisement was followed by a corrigendum dated 27.8.2018 in which the definition of the ESP was provided which read as under: -

“4. *Definition of ESP (Eligible Sports Person) of Haryana as per Government Instructions No. 04/40/2017- 4SYA Dated:- 25.05.2018*

The definition of the eligibility for sportspersons for Group A & B posts as per the above notification is as under:-

Eligibility:

- i) The sportsperson plays for Haryana State at the national level; or*
- ii) The sportsperson is Haryana domicile and does not represent State/UT other than Haryana at national level.*

Sports Disciplines covered:

- i) Only those Sports/Games which are included in the Haryana Sports Policy, as amended from time to time.*
- ii) For international / Asian / Commonwealth tournaments, the individual/team should be sent/sponsored by Ministry of Sports & Youth Affairs or Sports Authority of India or National Level Sports Federation affiliated to Indian Olympic Association.*

Category of Tournaments:

The tournaments are categorized in decreasing order of level of competitive difficulty as per the following Table: -

Table – I

<i>Category</i>	<i>Tournament</i>	<i>Organizing Authority</i>
<i>1.</i>	<i>Olympics</i>	<i>International Olympic Committee (IOC)</i>
	<i>Paralympics</i>	<i>International Paralympics Committee (IOC)</i>
<i>2.</i>	<i>4-year World Championship</i>	

	<i>(restricted to Sports disciplines played in Olympics'/Paralympics)</i>	
3.	<i>Asian Games</i>	<i>Olympics Council of Asia</i>
	<i>Para Asian Games</i>	<i>Asian Paralympics Committee</i>
	<i>Youth Olympics</i>	<i>IOC</i>
4.	<i>Commonwealth Games</i>	<i>Commonwealth Games Federation</i>
	<i>Commonwealth Games (Para Athletes)</i>	
	<i>Youth Asian Games</i>	<i>Olympic Council of Asia</i>
5.	<i>Other World/ International Championship</i>	<i>International Federation of the concerned game recognized by the International Olympic Committee</i>
	<i>IPC World Cup/Championship (Held annually or biennially)</i>	<i>IPC</i>
	<i>IBSA World Championship</i>	<i>International Blind Sports Federation</i>
6.	<i>World University Games</i>	<i>International University Sports Federation</i>
7.	<i>Other Asian / Commonwealth Championship</i>	<i>Asian Federation of the concerned game affiliated to the Olympic Council of Asia/International Federation/ Commonwealth Games Federation</i>
8.	<i>SAF Games</i>	<i>South Asian Games</i>

		<i>Federation</i>
<i>9.</i>	<i>International/ Domestic Cricket Test/One day</i>	<i>ICCF/BCCI</i>
	<i>Blind Cricket World Cup (held in four years)</i>	<i>World Blind Cricket Council</i>

Sports Gradation Certificate:-

A sportsperson is eligible for the following Sports Gradation Certificate Type as per following table, subject to the conditions in Rules 6.1 & 6.2. The best sports achievement claimed will be considered for issuing the Sports Gradation Certificate.

<i>Group A</i>	<i>Participation in a tournament of Category 2 or above; or Medal winner in a tournament of Category 7 or above. (restricted to Sports discipline played in Olympics/Paralympics)</i>
<i>Group B</i>	<i>Participation in a tournament of Category 7 or above; or Medal winner in a tournament of Category 9 or above.</i>

Rule 6.1 – In case of a team game, the sportsperson should have been an active player, that is, he should have played in not less than 25% of the games played by the team in the tournament. A player kept as reserved shall not be considered as active player in that game. The sportsperson must show proof of having played at least one game (i.e. not kept as reserve) in the tournament.

Rule 6.2 - The tournaments unless specifically indicated connotes senior level tournaments. The corresponding junior level tournament would be placed one category lower.

Illustration:

The ISSF World Cup (Shooting) is at Category No. 5, hence the ISSF Junior World Cup is to be ranked one category lower at Category No. 6.

Entitlement to any benefit under Sports quota:

An applicant is not entitled to any benefit, including appointment, under the Sports quota, unless supported by Sports Gradation Certificate of appropriate Grade in the format at Schedule-1 (the performa / format is given below)

Schedule-1

Certificate No.

SPORTS GRADATION CERTIFICATE

1.Name of Sportsperson:_____

2.Aadhaar No.: _____

3.Mobile No.: _____

4.Name of District to which sportsperson belongs:

5.Domicile State: _____

6.Plays for (Name of State/Organization): _____

7.Name of Sports Discipline: _____

8.Best Sports Achievement:
i.Name of Tournament: _____
ii.Month & Year: _____
iii.Venue of Tournament: _____
iv.Organizing Authority: _____
v.Tournament Type: Senior _____
Junior _____
vi.Medal won (if any): Gold
Silver
Bronze
vii. Participation Level: 25% or more
(in case of team game only) Less than 25%

Dated: _____ (Signature of Sportsperson)

..... For Official use only

Checked. A copy of supporting documents (self - attested) in support of the claim is retained in office.

Granted Grade _____ Sports Certificate.

Dated: _____

District Sports & Youth

Director, Sports[#]

Affairs Officer, _____

Department of Sports & Youth Affairs, Haryana

[#]Required in case of Grade-A or Grade B sports certificate only”

The petitioner had applied for taking the preliminary examination with the sports gradation certificate attached as Annexure P-5 in which his category has been described as Grade ‘D’. He was issued Roll No.18826 by the Commission on the basis of which he had appeared in the preliminary examination of Haryana Civil Services (Judicial Branch) on 22.12.2018. The result of the preliminary examination was declared on 21.1.2019 and since the petitioner had secured 142 marks as against the cut off 116 marks provided for ESP for Haryana, his name was shown amongst the successful candidates. After having been successful in the preliminary examination, the petitioner had applied the ESP certificate (Annexure P-5) in which his category has been mentioned as ‘D’. On scrutiny of documents, the Commission had published two lists i.e. List-I and List-II of the candidates who were not allowed to take the main written examination. The petitioner was thus denied to appear in the main written examination. The petitioner was also supplied the reason for rejection on 21.2.2019 by the Commission in which it is categorically mentioned that “*you cannot be considered as eligible candidate for these posts as you do not possess relevant gradation certificate as per notification dated 25.5.2018 of*

Haryana Government”. The petitioner thereafter made a representation on 25.2.2019 for seeking review of the decision of the Commission for allowing him to take the main written examination but his representation was rejected by impugned order dated 5.3.2019 on the ground that he does not possess a sports Gradation Certificate with Grade A & B which is essential for the recruitment of Group A and B posts as per Haryana Govt. Instructions dated 25.5.2018.

After issuance of notice, respondent No.3 has filed the reply but learned counsel for respondent No.1 & 2 has submitted that the candidature of the petitioner has been rejected strictly in accordance with the provisions mentioned in the corrigendum.

Learned counsel for the petitioner has submitted that while he was studying in school, had played Volleyball and was runner-up in the 54th National School Games under 19 held at Jhansi, UP between 11.12.2008 to 15.12.2008 in which his team was the runner-up. It is submitted that the Department of Sports & Youth Affairs, Haryana had issued a certificate to him of B-1 Grade in terms of the Policy dated 30.11.1993. The petitioner has thus raised the grievance that once he has been given the certificate by the sports authority of the State of Haryana i.e. by the Department of Sports & Youth Affairs, Haryana as B-1 then it could not have been changed by subsequent notification issued by the State of Haryana on 25.3.2018 to Grade ‘D’.

On the other hand, learned counsel for the respondent has submitted that the candidature of the petitioner has been rejected only after receiving the certificate of gradation by him after he had passed the preliminary examination in which he has been given the Grade ‘D’ by the Department of Sports & Youth Affairs, Haryana. It is also submitted that

the Commission has taken into consideration the instructions dated 25.5.2018 for the purpose of deciding as to who would be eligible for taking the main written examination and since the petitioner was in Grade 'D' as per the certificate dated 13.9.2019, the candidature of the petitioner has been rejected. It is also submitted that in the present petition there is no challenge either to the notification dated 25.5.2018 or the petitioner had ever submitted to them the certificate dated 25.8.2009 bearing Grade B-1.

We have heard learned counsel for the parties and after perusal of record, are of the considered opinion that there is no merit in the present petition because the respondents have not deviated from the provisions of the corrigendum which is being followed in respect of all the categories in which it is specifically mentioned that the definition of the ESP would be as defined in the notification dated 25.5.2018 the challenge to which is conspicuously absent in the present writ petition. A person cannot be allowed to take the refuge to the notification of 1993 until and unless the notification which has been issued by the State Government followed by the Commission dated 25.5.2018 is challenged by the petitioner in this petition. Consequently, the petitioner himself had submitted the sports gradation certificate dated 13.9.2018 after having been successful in the preliminary examination for the purpose of taking the main written examination and did not submit the gradation certificate dated 25.8.2009. The respondents have thus committed no fault in rejecting the prayer made by the petitioner for the purpose of considering the certificate issued to him by the Department of Sports & Youth Affairs, Haryana in which he has been given the Grade B-1 on his participation in the National School Games as the said certificate was based upon the previous policy and had been issued a fresh certificate in which his category has been reduced to Grade 'D' which is based upon the

instructions dated 25.5.2018 which is scrupulously followed by the State of Haryana and the Commission. Thus, in view thereof, we hardly find any scope in this petition to interfere and hence, the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

11.03.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*