

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

CWP No.23266 of 2013 (O&M)

Date of Decision : 29.08.2019

Surender Singh

....Petitioner

v/s

The Secretary, H.S.S.C, Sector 2, Panchkula, Haryana

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Aditya Yadav, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

B.S. Walia, J. (Oral)

[1] Prayer in the writ petition is for the issuance of a writ of Certiorari for quashing communication (Annexure P/12) dated 07.10.2013, whereby the candidature of the petitioner for the post of Conductor against advertisement No.4/2008 was cancelled. Prayer is also for the issuance of a writ of Mandamus for directing the respondent to allow the petitioner to join as conductor in terms of appointment letter (Annexure P/9) dated 11.02.2013.

[2] Brief facts of the case leading to the filling of the writ petition are that the respondent advertised amongst other posts, the post of Conductor for Ex-servicemen vide advertisement No.4/2008, Category No.13, stipulating the below mentioned essential qualifications :-

“i. *Matric with Hindi or Sanskrit.*

ii. ***Candidate should hold valid conductor licence on cut off date.***

Special instructions:-

The prescribed essential qualification does not entitle a candidate to be called for interview. The commission may short list the candidates for interview by holding a written

examination or on the basis of a rationale criterion to be adopted by the Commission. The decision of the Commission in all matters relating to acceptance or rejection of an application, eligibility/suitability of the candidates, mode of and criteria for selection etc. will be final and binding on the candidates. No inquiry or correspondence will be entertained in this regard.”

[3] Admittedly, the petitioner did not possess a Conductor's license, required to be issued by the competent authority on the basis of First Aid Certificate on the cut off date of the aforesaid Advertisement i.e. 05.08.2009 and Corrigendum dated 20.08.2009. The petitioner claims to possess a First Aid Certificate. However, the certificate attached by the petitioner i.e. Annexure P/2 is a specimen and not the First Aid Certificate issued to the petitioner. The petitioner also claims to have a certificate from the Indian Air Force relating to Physical Training and First Aid Certificate dated 18.05.1989 i.e. Annexure P/4. A perusal of the same reveals that First Aid for Sports Injuries was one of the course contents which was undergone by the petitioner from 06.03.89 to 29.04.89. The petitioner has also relied upon Certificate (Annexure P/5) dated 23.03.2006 issued by the Government of India, Ministry of Personnel, Public Grievances that ex-servicemen who had obtained the Indian Army Special Certificate of Education etc and had put in not less than 15 years of service may be considered eligible for appointment to any reserved vacancy in Group 'C' post, for which the essential qualification was graduation and where experience of technical and professional nature was not essential. However, Annexure P/5 is of no avail to the petitioner, since the qualification for the post of Conductor requires expertise and professional training in First Aid.

[4] The petitioner participated in the selection process and was selected for appointment, where after he was medically examined and found fit vide

Medical Certificate (Annexure P/8) dated 18.02.2013. Thereafter, the petitioner was offered appointment by the General Manager, Haryana Roadways, Gurgaon vide (Annexure P/9) dated 11.02.2013. Clause 4 & 8 of the appointment letter (Annexure P/9) stipulates that before assuming charge of duty, the petitioner would be required to produce attested copies of educational qualification etc as claimed by him in the application form, which would be got checked/clarified by the concerned General Manager, Haryana Roadways and if it was found that there was any material discrepancy in the educational / professional qualifications as had been claimed in the application, then the offer of appointment would be treated as null & void.

[5] That vide Annexure P/10 dated 29.08.2013, petitioner received a communication from respondent No.1 of his not having attached valid conductor license with the form and requiring him to submit valid conductor license along with original documents within 03 days. In response thereto, the petitioner submitted reply (Annexure P/11) contending that in order to qualify professional qualification of conductor, a candidate was to be issued a training letter by the allotted depot at the time of joining duty where after the candidate was to be detailed along with a senior conductor for professional training and on completion of the same he would have to pass the examination conducted by the depot authority and after completion of aforesaid process the candidate would be issued temporary conductor number and considered fit to perform duty of conductor independently.

[8] Reply has been filed on behalf of respondent No.1 that the candidature of the petitioner for the post of Conductor was cancelled on account of his not possessing a valid conductor license on the date of

that as per the advertisement, candidature of a candidate could be cancelled at any stage, in case, it was found that the candidate was not eligible. Relevant extract of the conditions is reproduced as under:-

“Candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application. If on verification at any time before or after the written examination or interview or appointment, it is found that they do not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect their candidature will be cancelled.”

[9] The reply further mentions that the petitioner while applying for the post of Conductor appended Indian Air Force Certificate (Annexure P/4) dated 30.05.89 outlining the First Aid Course contents i.e. First Aid Course for Sports Injuries amongst the other aspects of the course undergone by him, that on the basis of First Aid Certificate, a conductor license was required to be obtained from the competent authority i.e. the Sub Divisional Magistrate (Civil), which the petitioner had not obtained and appended with the application form. Accordingly, on the matter coming to the notice of the Commission, the candidature of the petitioner was cancelled vide letter Annexure P/12 dated 07.10.2013. Annexure P/2 (specimen issued to some other candidate) was form of medical certificate showing competence in first aid work and was not the certificate issued to the petitioner besides cannot be termed as a Conductor's license.

[10] Issuance of Conductor licenses in the State of Haryana is governed by Chapter 3 (Licensing of Conductors of State Carriage) of Haryana Motor Vehicles Rules, 1993. Rule 22 *inter alia* provides that an application for the grant or counter signature of a conductor license is to be made in form HR No.7 of the Licensing Authority of the area of jurisdiction

where the applicant resides or carries on business and is to be accompanied

by prescribed documents while as per Rule 3(3) of the Haryana Motor Vehicles Rules, 1993, licensing authority in case of Chapter 3 (Licensing of Conductors of State Carries) is Secretary, Regional Transport Authority and Assistant Secretary (Regional Transport Authority) within the area of the territorial jurisdiction. Rule 22(1)(3) provides for a medical certificate of fitness from a Government Medical Officer authorized by the Transport Commissioner on the recommendations of the Chief Medical Officer of the area of jurisdiction concerned along with the certificate issued by the Saint John's Ambulance or any of its units in the State in Form HR No.8.

[11] Rule 22(2) further provides that in case of application for grant of Conductor's license, if the licensing authority has reason to believe that the applicant is physically unfit to perform the duties of a Conductor, it may call upon him to furnish a third copy of his clear and recent photograph in addition to the photographs already furnished under sub-rule (1) and to produce another medical certificate of fitness in Form HR No.9 from a Medical Board appointed by the Transport Commissioner, Haryana on the recommendations of the Chief Medical Officer of the area of jurisdiction concerned and no person would be eligible to make an application under sub-rule (1) for the grant of Conductor's license, unless he *inter alia* was of sound physique and submitted satisfactory proof of his good character. Therefore, it is only on fulfilling the eligibility requirements stipulated as per Rules 1993 and the Motor Vehicles Act, 1988 that a candidate can apply for a Conductor license. Rule 22 of the Haryana Motor Vehicles Rules, 1993 is reproduced as under:-

“22. Application for grant of conductor's license [Sections 30 and 38(2)(a)].-- (1) An application for the grant or counter signature of a conductor's license shall be made in Form H.R.No.7 to the licensing

authority of the area of jurisdiction where the applicant resides or carries on business and shall be accompanied by :-

- (i) two clear copies of recent photographs of the applicant;*
 - (ii) a cash receipt or a treasury challan in token of payment of fee; and*
 - (iii) a medical certificate of fitness from a Government Medical Officer authorized by the Transport Commissioner on the recommendations of the Chief Medical Officer of the area of jurisdiction concerned for this purpose along with a certificate issued by the Saint John's Ambulance or any of its units in the State in Form H.R.No.8.*
- (2) In the case of an application for grant of a conductor's license if the licensing authority has reason to believe that the applicant is physically unfit to perform the duties of a conductor, it may call upon him to furnish a third copy of his clear and recent photograph in addition to the photographs already furnished under sub-rule (1) and to produce another medical certificate of fitness in Form H.R.No. 9 from a Medical Board appointed by the Transport Commissioner, Haryana on the recommendations of the Chief Medical Officer of the area of jurisdiction concerned for this purpose and the photographs so furnished should be firmly affixed with the application duly signed and sealed by the Government Medical Officer.*
- (3) No person shall be eligible to make application under sub-rule (1) for the grant of conductor's license, unless, he*
- (i) is a Matriculate with Hindi as one of the subject;*
 - (ii) possesses knowledge of the provisions of the Act and the rules made there under;*
 - (iii) is conversant with the duties and functions of a conductor;*
 - (iv) is of a sound physique; and*
 - (v) gives satisfactory proof of his good character;*
- (4) If the application for the grant of a conductor's license is found to be in order by the licensing authority and the requirements of the provisions of Chapter III of the Act are met with, it may grant a conductor's license in Form HR No.10 which shall be*

valid for a period of five years from the date of issue and shall be effective throughout the State.”

[12] The aforementioned rules inter alia provides for medical certificate of fitness to be attached along with the application form issued by a Government Medical Officer authorized by the Transport Commissioner on the recommendations of the Chief Medical Officer of the area of jurisdiction concerned, certificate issued by the Saint John’s Ambulance or any of its units in the State in Form HR No.8 besides of satisfying the requirements stipulated under Rule 22(3). Admittedly, the petitioner did not hold a valid Conductor license on the cut off date as per the advertisement nor possesses certificate showing competence to undertake first aid work as per Form No. HR-8. The same is reproduced as under.

FORM HR NO.8

Form HR No.8, which is form of medical certificate showing competence to undertake first aid work is reproduced as under:-

“See Rule 22 of the Haryana Motor Vehicles Rules, 1993)

*FORM OF MEDICAL CERTIFICATE SHOWING COMPETENCE
IN UNDERTAKE FIRST-AID WORK*

(To be granted by the St. John, Ambulance Association, India)

I certify that _____ aged about _____ years

is qualified to use the first aid box.

(Dated)

Signature

Designation”

[13] Thus, it is that neither the petitioner submitted medical fitness in terms of Rule 22, nor certificate issued by the Saint John’s Ambulance or any of its units in the State in Form HR No.8 as referred to above nor submitted proof of fulfilling conditions stipulated in Rule 22 nor he had a conductor

license on the relevant date. The petitioner has relied upon conductor license issued to him on 17.01.2019 valid up to 16.01.2024, certifying him to be licensed as a conductor and of having been issued a conductor badge. The cut off date, as mentioned in the advertisement, is of the year 2008, whereas the Conductor license relied upon by the petitioner is dated 17.01.2019. The petitioner did not fulfill the qualifications as stipulated in the advertisement (Annexure P/1) inasmuch as he did not have a Conductor's license, which could be issued only on the petitioner submitting medical certificate issued by the competent authority as per Rule 22, as also of his possessing the certificate issued by the Saint John's Ambulance or any of its units in the State of being competent to give First Aid besides fulfilling other conditions stipulated in Rule 22(3).

[14] Despite the petitioner having been addressed Communication (Annexure P/10), requiring him to submit valid Conductor license, the same was not submitted by the petitioner on account of his not possessing the same at said point of time. Accordingly, the impugned order (Annexure P/12) was passed cancelling the candidature of the petitioner for the post of Conductor. In the circumstances as noted above, the impugned order does not suffer from any infirmity warranting inference with same. The writ petition is bereft of merit and is accordingly *dismissed*.

(B.S. Walia)
Judge

August 29, 2019

'Rajneesh'

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No