

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

CWP No.20760 of 2019 (O&M)

Date of Decision.20.08.2019

Manbir Singh

...Petitioner

Vs

State of Haryana and others

...Respondents

Present: Mr. Manjeet Singh, Advocate
for petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Petitioner working as District Revenue Officer, being an aspirant for appointment as HCS (Executive Branch) for Register A-1 of District Revenue Officer/Tehsildars, knocked door of this Court by challenging decision dated 12.07.2019 (Annexure P-18) whereby his case has not been recommended, owing to decision taken for initiating disciplinary proceedings.

Facts that emanate from contents of writ petition reveal that in pursuance of notification dated 30.05.2019 (Annexure P-1), Haryana Government intended to fill up 23 vacancies of Haryana Civil Services (Executive Branch) for Register A-1 of District Revenue Officer (for brevity DROs)/Tehsildars pertaining to year 2019 in terms of Rule 9 of Haryana Civil Services (Executive Branch) Rules, 2008.

The aforementioned advertisement provided cut off date for fulfilling eligibility conditions as 01.11.2018 whereby candidate must have completed two conditions i.e. (a) and (b). Condition (a) is divided into four parts i.e. (i) 8 years of continuous service, (ii) not attained age of 50 years,

(iii) not facing any disciplinary proceedings and against whom action is being contemplated and condition, (iv) is clear from vigilance angle and condition No. (b) is a graduate from a recognized University. Recommendations were required to be sent upto 28.06.2019.

Mr. Manjeet Singh, learned counsel appearing for petitioner submitted that petitioner fulfilled all conditions. Respondent No.2, Additional Chief Secretary and Financial Commissioner, Department of Revenue and Disaster Management, Haryana being empowered to send names of eligible DROs/Tehsildars to respondent No.3, initiated proceedings for recommending names of eligible DROs and accordingly vide notings dated 01.06.2019 (Annexure P-3), 11 DROs as per criteria were found to be eligible. Notification dated 22.12.2017 provided criteria. Name of petitioner figured in the list of eligible candidates. He submitted that matter pertaining to six persons including petitioner was referred to the Vigilance Cell regarding registration of sale deeds without valid NOCs. However, as per report of vigilance, petitioner was cleared from criminal proceedings as on cut off date i.e. 01.11.2018, there was no vigilance enquiry, much less, any disciplinary proceeding was pending. It is only in March, 2019, Department has decided to initiate enquiry. In support of aforementioned contention, drawn attention of this Court to notings dated 01.06.2019 (Annexure P-3) and 26.06.2019 (Annexure P-4) that during subsistence of aforementioned notification (Annexure P-1), office of Chief Secretary, Personnel Department, Haryana on reconsideration of the matter sought names not more than five times of number of vacancies i.e. 23 upto 28.06.2019 and decided that DROs/Tehsildars whose names are to be recommended should fulfill various eligibility conditions and further

clarified that persons facing pending disciplinary enquiry/proceedings upto the date of consideration cannot be considered for recommendation. It is, in these circumstances, cause of action accrued to the petitioner to challenge Annexure P-18.

It is next contended that decision to charge sheet was taken only on 05.03.2019 whereas the cut off date in previous notification dated 30.05.2019 was 01.11.2018, therefore, impugned action of respondents is not sustainable and liable to be set aside. Petitioner is, thus, required to be recommended.

I have heard learned counsel for petitioner, appraised paper book and of the view that there is no force and merit. Concededly, there is no challenge to decision of Chief Secretary dated 09.07.2019 whereby following conditions were substituted in notification dated 30.05.2019:-

“2. The State Government has re-considered the matter and it has been decided that DROs/Tehsildars whose names are to be recommended should fulfil the following conditions of eligibility:-

(a) (i) has completed eight years continuous Government service.

(ii) has not attained the age of fifty years as on 1.11.2018.

(iii) is not facing disciplinary proceedings and against whom action is not being contemplated; and

(iv) is clear from vigilance angle;

(b) is a graduate from a recognized University.

**It is further clarified for the condition (a) (i) that*

services rendered as Naib Tehsildars shall not to be included while determining the eligibility as per interim orders/directions dated 26.04.2017 of Hon'ble High Court of Punjab and Haryana Chandigarh passed in CWP No.8502 of 2017-Joginder Sharma and others versus State of Haryana and others.

** It is further clarified that DROs/Tehsildars, who are otherwise eligible being less than 50 years of age on and after 1.11.2018, their ACRs be considered upto year 2018-2019 and experience be taken into consideration upto the date of recommendation. The DROs/Tehsildars, who had not attained the age of 50 years as on 1.11.2018 but attained the age of more than 50 years on and after 1.11.2018 till the date of recommendation, their experience and ACRs record be considered only upto 1.11.2018. However, pending disciplinary proceedings vigilance clearance and integrity be considered upto the date of consideration in both cases.*

No doubt in the noting portion dated 01.06.2019, it was found that petitioner was not charge sheeted and decision to initiate disciplinary proceedings under Rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 was taken on 05.03.2019 only but the Vigilance Department had not given clearance, which is essential requirement of sub-condition No.(iv) of condition (a) extracted above. Notification dated 30.05.2019 cannot be read in isolation but has to be read in conjunction with notification dated 09.07.2019.

In these circumstances, petitioner's name for the time being is

smeared with allegation contained in chargesheet, thus, decision of respondent No.2 in not recommending name of petitioner to respondent No.3 cannot be said to be erroneous or fallacious.

Dismissed.

(AMIT RAWAL)
JUDGE

August 20, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No