

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

**Civil Writ Petition No.4768-CAT of 2017**

Date of decision: January 08, 2019

Narender Kumar

...Petitioner

Versus

Union of India and others

...Respondents

**2.**

**Civil Writ Petition No.29324-CAT of 2017**

Surinder Singh

...Petitioner

Versus

Union of India and others

...Respondents

**3.**

**Civil Writ Petition No.29841-CAT of 2017**

Sukhraj Singh

...Petitioner

Versus

Union of India and others

...Respondents

**AND**

**4.**

**Civil Writ Petition No.6706-CAT of 2018**

Sukhwinder Singh

...Petitioner

Versus

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,  
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Barjesh Mittal, Advocate  
Mr. Rohiteshwar Singh, Advocate  
for the petitioners.

Mr. Jitender Nara, Advocate for  
the respondents – Union of India  
in CWP Nos.4768-2017 and 29841-2017.

Mr.Alok Kumar Jain, Advocate for  
the respondents in CWP No.29324-2017.

Mr.Anil Chawla, Advocate for  
the respondents in CWP No.6706-2018.

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HARINDER SINGH SIDHU, J.

This judgment shall dispose of four cases, namely Civil Writ Petition Nos.4768, 29324, 29841 of 2017 and 6706 of 2018, as the issue involved is similar in all these cases.

For the purpose of judgment, the facts are being taken from CWP No.4768 of 2017.

The petitioner has impugned the order dated 18.1.2017 of the Central Administrative Tribunal, Chandigarh Bench, whereby, his Original Application for setting aside the orders dated 13.10.2011 terminating his service and for restoration of his service as Civilian Motor Driver (Ordinary Grade) has been dismissed.

Respondent No.5 issued an advertisement in the 'Employment News' dated 25.9.2010 for recruitment of civilian candidates to the posts of Civilian Motor Driver (OG). The last date for receipt of applications was 21.10.2010. The qualifications/ experience for the said post was specified as under:-

- “a) Minimum Matriculation or equivalent.*
- b) Must possess a Civil Driving Licence for driving heavy vehicle and have a minimum 02 years experience of driving such vehicle.*
- c) Age 18-27 years for Gen Category, 18 to 30 for OBC and 18 to 32 for SC/ST Candidates.*

*d) Age relaxation of Ex-Servicemen: Age prescribed for the post + 3 years + service rendered in Army.”*

The petitioner applied for the said post. He was considered by the Selection Committee and issued Admit Card for participating in the recruitment process at CISF Unit, Punjab and Haryana Civil Secretariat, Chandigarh to be held on 15.11.2010. Thereafter, he was again issued an admit card for fitness test to be held on 3.12.2010. After clearing both the stages of the recruitment process, he was asked to report to the Unit for medical examination and to bring the original educational certificates, caste certificate, civil Driving Licence of Heavy Vehicle, experience certificate for driving heavy vehicles for two years and photographs etc. The petitioner was offered appointment vide letter dated 25.2.2011 to the post of Civilian Motor Driver (OG). He joined immediately thereafter. After the joining he regularly drove Heavy Transport Vehicles for the respondents even in the most rigid and rough terrains in the hilly areas. He was subjected to strict driving test for driving Heavy Transport Vehicles of the Army. On successfully completing the test, he was issued Hill Driving Licence authorising him to drive ALS/4 Ton/Turbo/ SMan/ 2.5 Ton/ 1 Ton/ Jeep/ Gypsy/ Car/ MC. However about eight months after he had joined as Civilian Motor Driver (OG) his services were terminated vide order dated 13.10.2011 with immediate effect on the ground that “*Experience commence one year and one month prior to issue of License*”.

Aggrieved by this order, the petitioner along with some other drivers whose services had been similarly terminated filed OA No.1115/PB/2012 titled 'Shamsher Singh and others vs. Union of India'

praying for setting aside the termination orders dated 13.10.2011. Similar OAs were filed by other colleagues of the petitioner, whose services were terminated on similar ground, the lead case being OA No.1105/PB/2012 titled as 'Amninder Singh and others vs. Union of India and others'. The said case was decided on 27.5.2014. The Original Applications were allowed. The termination orders were quashed and the respondents were directed to immediately reinstate the applicants in service. However, the Original Application filed by the petitioner was dismissed vide order dated 30.5.2014 on the ground that the experience certificate submitted by the petitioner did not reflect two years of experience of driving Heavy Motor Vehicle after the date of issue of HTV license to him.

The petitioner assailed the said order by filing CWP No.9840 of 2016 titled as "Narender Kumar vs. Union of India and others". The said petition was disposed of vide order dated 31.5.2016. This Court noted that the Tribunal in some cases had set aside the termination orders of drivers issued on the ground that they did not possess the requisite experience of driving heavy vehicles on the cut-of-date before such selection and directed their reinstatement. Those orders had been upheld by the High Court in a bunch of writ petitions, including CWP No.2088 of 2015 titled 'Union of India and others vs. Central Administrative Tribunal, Chandigarh Bench and others' decided on 20.3.2015 after obtaining a report from the Authorities regarding the satisfactory work and conduct of those drivers. Those orders had not been challenged by the respondents and had attained finality. The writ petition was allowed. The order of the Tribunal was set aside and case remitted to the Tribunal for fresh adjudication of the

question of the eligibility of the petitioner with reference to requisite experience of driving heavy vehicles. Thereafter, the matter was considered by the Tribunal afresh and the impugned order passed.

The petitioner had relied on the experience certificate dated 20.8.2010 issued by Suraj Bus Service, Pitampura, Delhi certifying that he had worked as driver in the Society from May, 2007 to July 31, 2009 on a salary of Rs.3200/- per month. Along with his rejoinder he had annexed another certificate dated 1.10.2010 issued by the Rajora Co-op Transport Society Ltd. Hisar (Hr.) certifying that he was working as Bus driver (Heavy) from 01.08.2009 to 30.9.2010. The petitioner had contended that this experience had to be counted along with the experience gained from January, 2010 to 25.2.2011, the period when he was driving trucks as a Civilian Motor Driver (OG). The learned Tribunal dismissed the Original Application by observing that the experience certificate dated 20.8.2010 issued by Suraj Bus Service could not be considered as requisite experience of driving Heavy Motor Vehicle as there is no mention in the certificate that he was driving heavy vehicle. The certificate dated 1.10.2010 issued by Rajora Co-op Transport Society Ltd. Hisar (Hr.), had been appended by the petitioner with the rejoinder to OA and hence appeared to be afterthought. There was nothing on record to indicate that this certificate was ever produced by the petitioner before the concerned Recruitment Board at the time of verification of documents. Moreover, these documents were not on record with the OA, but had been annexed with the rejoinder filed on 10.11.2006.

Learned counsel for the petitioner has contended that there was

no misrepresentation on the part of the petitioner and that the shortfall in his experience certificates ought to be considered to have been made good as he had gained sufficient experience of driving heavy vehicles in the most tough terrains after his appointment as Civilian Motor Driver (Ordinary Grade). Hence, his termination order ought to have been quashed as had been done in some other cases.

The present is not a case of mere some deficiency in experience which could be condoned by taking into account the experience gained by him after appointment. His appears to be a case of total lack of experience. As noted by the Tribunal, the earlier experience certificate dated 20.8.2010 issued by Suraj Bus Service, Pitampura, Delhi did not mention heavy vehicles and hence could not be considered to be experience certificate of the nature required. The second experience certificate dated 1.10.2010 issued by Rajora Co-op Transport Society Ltd. Hisar (Hr.) was annexed with the rejoinder on 10.11.2016 and was rightly not relied upon as being unreliable. None of these experience certificates was submitted to the respondents at the time of document verification.

**CWP-29841-2017 :**

The petitioner Sukhraj Singh in this case was issued the driving licence for HTV on 12.7.2010 i.e. 2½ months before the advertisement. The petitioner relied on experience certificate dated 26.9.2010 issued by Kolkata Srinagar Transport Company, Pathankot certifying that he has worked as a driver from 5.1.2008 to 30.8.2010. Reliance was further placed on another undated certificate of the same Company certifying that the petitioner had worked as a driver for heavy vehicle No.PB06E7600

from September, 2010 to December, 2010 on a salary of Rs.6,000/-. With regard to the first certificate dated 26.9.2010 the learned Tribunal held that no reliance could be placed on it as the certificate did not mention that it was in respect of driving a heavy vehicle. Further as the driving licence for HTV was issued to him on 12.7.2010, he could not have driven the heavy vehicle prior to it. The second undated experience certificate only certified him as driver of heavy vehicle from September, 2010 to December, 2010. Taking the experience from the date of issue of HTV licence on 12.7.2010 and including the experience of the petitioner after his appointment till termination of his services on 25.10.2011 his experience comes to only 15 ½ months only, which is far short short from the requisite experience of two years. The Tribunal held that even taking the most favourable view, he did not fulfil the eligibility condition with reference to driving heavy vehicles. Thus, his services were held to be rightly terminated.

**CWP-29324-2017:**

In this case, no copies of the driving license/ experience certificate were placed on record with the Original Application. It was only in the Review Application No.060/00078/2014 filed by the petitioner Surinder Singh that a copy of the driving licence was annexed which showed that endorsement dated 9.4.2009 had been made on the licence authorising him to drive Heavy Transport Vehicles. He also annexed an experience certificate dated 30.8.2010 of Delhi Baroda Road Carrier Private Limited, Dlamboli, Navi Mumbai certifying that he had worked as a driver from 10.3.2007 to 25.8.2008. The learned Tribunal noted that as this

certificate did not mention that the petitioner was driving heavy vehicles, no reliance could be placed thereon. Accordingly, it was concluded that at the time when the applicant applied for the post, he did not have the requisite experience.

**CWP-6706-2018 :**

The petitioner Sukhwinder Singh in this case got the driving licence for HTV on 7.11.2008. He relied on a certificate dated 5.6.2010 issued by Mata Gujri Model High School, Village Amipur, District Gurdaspur certifying that he had been working as a driver from 6.6.2005 till date. The learned Tribunal dismissed the OA holding that firstly, it had not been mentioned in the certificate that the petitioner had been driving any heavy vehicle at any stage. Even in the Original Application, he had not pleaded that he had been driving heavy vehicle while employed in the school. Accordingly, his experience as driver with the school could not be considered to be that of driving heavy vehicles. Consequently, prior to his employment with the respondents, the petitioner had no experience of driving heavy vehicle at all.

**Conclusion :**

Thus, these cases are not mere cases of some deficiency in experience, which could have been considered to be made good in the light of the experience gained post-appointment. These appear to be cases of almost total absence of experience or experience for a very short period.

Moreover, it is not a case that the petitioner's services had been terminated after they had worked on the post for a very long period. Their appointment letter clearly specified that their appointment was provisional

and on temporary basis and was subject to verification of the certificates produced by him. On scrutiny of documents the anomalies were found and their services were terminated about eight months after appointment.

Thus, there is no infirmity in the orders of the Tribunal warranting interference.

Petitions are dismissed.

(RAJIV SHARMA)  
JUDGE

(HARINDER SINGH SIDHU)  
JUDGE

January 08, 2019

gian/Atul

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|-----------------------------|----------|
| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |