

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

Civil Writ Petition No.4798-CAT of 2017

Date of decision: January 10, 2019

Manpreet 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 for the petitioner.

Mr. Anil Chawla, Advocate for
respondents No.1 to 5.

HARINDER SINGH SIDHU, J.

The petitioner has impugned the order dated 21.10.2016 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 10.2.2011 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 nine 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 “*date of issue of experience certificate mentions 02 years which implies with effect from*

Nov. 06 to Nov. 08 which is before grant of HTV. Whereas, experience of driving 'heavy' vehicle should be after issue of HTV License.”

Aggrieved by this order, the petitioner along with two other drivers whose services had been similarly terminated filed OA No.1114/PB/2012 titled 'Manpreet 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 'Amminder 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 and two others was dismissed vide order dated 30.5.2014 on the ground that the experience certificates were for the period commencing prior to the date when they were eligible to drive HTVs as per Licenses issued to them.

The petitioner assailed the said order by filing CWP No.12067 of 2015 titled as “Manpreet Singh vs. Union of India and others”. The petition was disposed of vide order dated 8.4.2016. It was noticed 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 experience certificate dated 13.11.2008 from Ghuman & Kapoor Commission Shop, Paniar (GSP) of his having driven heavy vehicle for a period of two years. In the Review Application filed by the petitioner, he had annexed another experience certificate issued by Universal Services Contractor & Transporter that showed that he had worked as a driver of Heavy Vehicle w.e.f. 15.04.2009 to 31.12.2010. The Tribunal dismissed the application by observing as under:-

“7. We have given our careful consideration to the matter and perused the paper books pertaining to RAs that have been referred to by the learned counsels for the applicants. So far as the applicant No.1 is concerned, he appears to have procured an undated experience certificate (Annexure RA-5) annexed with RA No.060/00084/2014 after the present OA was initially dismissed qua applicants No.1 & 3 vide order dated 30.05.2014. No reliance can be placed on this document. The experience certificate of the applicant filed with the OA was also invalid as that referred to experience of two years of driving HTV which period was earlier than the date when the

license of the applicant was endorsed for HTV...”

Learned counsel for the petitioner has contended that there was no misrepresentation on his part 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.

As noted by the Tribunal, the earlier experience certificate dated 13.11.2008 from Ghuman & Kapoor Commission Shop, Paniar (GSP) of his having driven heavy vehicle for a period of two years pertained to a period before he had been issued the HTV Licence. Endorsement to drive heavy vehicles was made on his licence on 9.4.2009 i.e. after the issuance of the aforesaid experience certificate. The other experience certificate issued by Universal Services Contractor & Transporter was an undated experience certificate annexed for the first time with the Review Application (RA No.060/00084/2014) after the OA was initially dismissed vide order dated 30.05.2014. No reliance was rightly placed on that certificate by the Tribunal.

Thus, this is a case nor merely of some deficiency in experience, which could have been considered to be made good in the light of the experience gained post-appointment. It appears to be a case of almost total absence of experience of driving heavy vehicles after his obtaining the requisite license.

Moreover, it is not a case that the petitioner's services had been

terminated after he had worked on the post for a very long period. His appointment letter clearly specified that the appointment was provisional and on temporary basis and was subject to verification of the certificates produced by him. On scrutiny of documents anomalies were found and his services were terminated about nine months after appointment.

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

Petition is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 10, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No