

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

**C.W.P 4827 of 2018
Date of decision : 09.01.2019**

Suman DeviPetitioner
versus

State of Haryana and others ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sansar Kundu, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G Haryana

RITU BAHRI, J. (Oral)

Pursuant to advertisement 19.06.2015, the petitioner participated for 3 posts of MPHWP(Female) meant for Physical Handicapped (Ortho) and submitted all the documents. The petitioner appeared in the written examination and secured 98 marks as per OMR sheet. Petitioner was called for scrutiny of documents where her documents were verified. Thereafter, after seeking objections from the candidates, a revised answer key was uploaded and according to the revised answer key, the petitioner was securing 96 marks. Again the result of written examination was declared on 14.02.2018 but the name of the petitioner was not shown in the list of qualified candidates. Petitioner approached respondent No. 2 and enquired why her roll number is not shown, then she was orally told that there was objection regarding disability certificate. A representation dated 19.02.2018 was then given by petitioner to respondent No. 2 and 3.

Now the petitioner is seeking a writ in the nature of mandamus for directing respondent No. 2 to allow the petitioner to appear in the interview as

she has secured more marks than the last candidate qualified for interview.

This Court vide order dated 28.02.2018 passed the following order:-

“The petitioner competed for selection to the post of Multipurpose Health Worker (Female), under Physically Handicapped (Local Motor Disability), General Category. She purports to have qualified the written examination, and was called for scrutiny of documents on 26.05.2017. However, she was not called for interview, and ostensibly the reason for rejection of her candidature appears to be, that her disability certificate dated 05.10.2011 (Annexure P3), appended with her application form, was valid upto 5 years i.e. 05.10.2016, which lost its significance on the date of scrutiny of documents i.e. 26.05.2017. It is urged that closing date for submission of the application forms was 31.07.2015, and at that point in time the certificate (Annexure P3) was valid, and operative. And, the petitioner obtained a fresh disability certificate dated 05.04.2017 (Annexure P8), which she possessed at the time of scrutiny of documents, and it was even presented to the respondents. Thus, it is submitted that the candidature of the petitioner could not be rejected. Further, the interviews are scheduled to take place on 5th & 6th March, 2018, and, in the event, the petitioner is not permitted to participate in the process, she shall suffer an incalculable loss.

Notice of motion.

Mr. Siddharth Sanwaria, DAG, Haryana, present in court, accepts notice on behalf of the respondents. Copies furnished. Learned State counsel prays for a short accommodation.

Adjourned to 25.05.2018.

Written statement, if any, be filed a week prior to the next date of hearing with an advance copy to learned counsel for the petitioner.

The petitioner shall be interviewed provisionally, by the respondents, however, her results shall not be pronounced till further orders.”

The petitioner has secured 100 marks whereas the last candidate who had been called for interview secured 98 marks . This Court vide order dated

29.08.2018 directed the respondents to provisionally interview the petitioner.

Today, learned State counsel has brought the final result in which the last candidate under Physical Handicapped (Ortho) has shown to be securing 103 marks whereas the petitioner is securing 112 marks (94 marks in written examination and 18 marks in viva voice). Thus, the petitioner is securing more marks than the last candidate who is shown to be securing 103 marks.

Now the short point for consideration before this Court is that whether the disability certificate of the petitioner has been rightly rejected by the respondents.

The petitioner was issued disability certificate on 05.10.2011 (P-3) and as per learned State counsel, the disability certificate was valid for 05 years only and thus the candidature has rightly been rejected, as the closing date for submission of application form was 31.07.2015. However, it is not in dispute that petitioner obtained a fresh disability certificate dated 05.04.2017 (P-8), which she possessed at the time of scrutiny of documents and it was even presented to the respondents.

In view of the above factual position, the present petition stands allowed and the respondent-Commission shall recommend the case of the petitioner for appointment to the post of MPHWP under Physical Handicapped (Ortho) within a period of two weeks to respondent No. 4 from the date of receipt of certified copy of this order and thereafter, respondent No. 4 will issue appointment letter to the petitioner, within the next two weeks.

The result in original has been returned back to learned State counsel.

January 09, 2019
G Arora

(RITU BAHRI)
JUDGE
Yes
No

Whether speaking/reasoned
Whether reportable