

CWP Nos.38076 & 37936 of 2018 (O&M)

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

Date of decision : 18.07.2019

1. CWP-38076-2018 (O&M)

Ramesh and another

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

2. CWP-37936-2018 (O&M)

Sunit Kumar

... Petitioner(s)

Versus

Haryana Staff Selection Commission and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ram Avtar Sheoran, Advocate and
Mr. Karan Singh, Advocate
for the petitioner(s).

Mr. Gaurav Jindal, Addl. A.G., Haryana.

AMIT RAWAL, J.

This order of mine shall dispose of two writ petitions bearing **CWP No.38076 of 2018** titled as **“Ramesh and another V/s State of Haryana and others”** and **CWP No.37936 of 2018** titled as **“Sunit Kumar V/s Haryana Staff Selection Commission and others”**, as, according to counsel for the parties, the issues involved in both writ petitions are identical. However, the facts are taken from CWP No.38076 of 2018.

It is also pertinent to mention here that various other connected

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writ petitions were listed and after hearing the arguments and realizing involvement of disputed questions of fact and law, on request, sought permission of this Court to withdraw the writ petitions with liberty to avail remedy of civil suit, but in present two writ petitions, learned counsel for the petitioner(s), requested this Court, to hear the arguments and decide the writ petitions.

The petitioner(s) have approached this Court under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari quashing the orders, whereby the objections regarding their Driving Proficiency Test were wrongly rejected and with a further writ of mandamus directing the respondents to declare them pass in the Driving Proficiency Test or in alternative for appropriate directions to the respondents to re-conduct the driving test, in the proper supervision of the Officers/Officials of Haryana Staff Selection Commission.

It is averred that vide advertisement dated 18.05.2017, the respondent(s)/HSSC invited the application for filling up 2038 posts of Drivers in Haryana Roadways, by keeping the reservations in the respective categories. The last date of submissions of the application was 24.06.2017.

The essential qualification of the aforesaid posts is as under:-

- i) Matric;*
- ii) Should hold driving License of heavy transport vehicle with three years experience of driving heavy transport vehicle;*
- iii) Should have passed the driving tests conducted by the Haryana Staff Selection Commission;*
- iv) Should not be a colour blind;*
- v) Knowledge of Hindi/Sanskrit upto Matric Standard or higher education.*

The petitioner(s), being fully eligible, submitted the application

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online and were assigned roll numbers for the written examination to be held on 06.08.2017. Vide Annexure P-3, dated 10.11.2017, result of the written examination was declared and the petitioner(s) remained successful. The date for scrutiny of documents-cum-Driving Proficiency Test was scheduled to be held, on 27.11.2017, in the following manner:-

"i) Dug Test (Reverse), ii) 8 shape (Reverse & forward); iii) Zig-zag test and finally iv) Road Test that will be Videographed."

The petitioner(s) along with other candidates participated in the aforesaid test, remained unsuccessful.

Learned counsels for the petitioner(s) submitted that procedure of holding of driving proficiency test was totally vitiated being not in accordance with the instructions dated 22.11.2017 (Annexure P-4) of the Deputy Transport Controller (Store), ensuring the transparency and zero tolerance for corruption in the test.

It was next contended that there were mechanical defects in the clutch plates of the bus as it was not working properly, despite were told to undertake Dug test with the same Bus i.e. defective bus, even request for conducting re-test was refused. Many representations, in this regard, were submitted, but no action has been taken. A large scale bungling had taken place for instance, one Member from HSSC was required to accompany the Committee consisting of General Manager/Traffic Manager/Works Manager of the Depots. Test was to be conducted in sixteen depots, but the Members of HSSC were present only in few of depots, being only six Members from HSSC. Neither demo for conducting test was given nor markers (white line) were put. The test was conducted

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by General Manager of various depots in a whimsical manner and without adherence to the guidelines. Vigilance Bureau arrested one person for accepting bribe of ₹50,000/- and case of corruption was found in two depots i.e. Sirsa and Kaithal, reflecting involvement of one Vinod. Staff employed at various depots helped the persons whom they wanted to clear the test. The petitioners approached this Court, vide various writ petitions and all the writ petitions of such nature were clubbed together. This Court, vide order dated 06.02.2018, directed the respondents to show videography of the test to the petitioners permitted to file the objections. The petitioners, after viewing videography, submitted their objections, but the same have arbitrarily and erroneously been rejected. In such circumstances, liberty was given to challenge the same in accordance with law.

Per contra, learned State Counsel submitted that videography do not reveal any violation of the instructions/directions. The petitioners are not expert, but in fact, could not undertake the essential test required for appointment and discharge the duties of Driver in Haryana Roadways. The point involved requires detailed evidence and cannot be adjudicated in a writ court.

In rebuttal, counsels for the petitioners, drew attention of this Court to the decision of the Committee, whereby while deciding the objections of all the candidates, it was found that certain vehicles were not found in the preview and few touched drawing line.

I have heard learned counsel for parties, appraised paper book and there is no force and merit in the contentions. By picking last submission in first, it is observed that the video camera installed was at a fixed place, so that it covers the driving test undertaken by a candidate

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within circumference of its focus. An attempt to find certain faults, as it could not capture certain driving fault or movement of vehicles, cannot be accepted, for, camera did not have motion sensor, when a candidate for undertaking test do not follow the drawing line and go out of the focus of the camera, obviously, in such circumstances, the camera, would not be able to capture the same. Still if they have any doubt, can always file the civil suit and get the the entire documents produced and examined by an Expert as both sides have different stories to tell. Obtaining of a job in Government is an aspiration of few of the candidates, but it is not necessary all candidates would pass and few would also fail and sometimes failure is not accepted, resulting into, number of litigation. This Court cannot even record a finding with regard to allegation qua staff supporting the members as the photographs are required to be proved, in accordance with law.

On going through the decision of the objections, in some cases, it is found that Committee noticed, rear driver side tyre-touched and rubbed along the collar of the dug during reverse dug test and few of them did not have the experience of three years. Conductor side rear tyre crossed the drawing line while in reverse mode i.e. during 8-shape test. Few of candidates sometimes did not ply bus completely on the dug and moved bus out of dug, even while conducting the reverse mode, it was not according to the parameters. It is unfortunate that the petitioners, who competed with other candidates, have not been selected owing of proficiency test viz-a-viz other candidates. There can be a case, where there was a mass resentment amongst the candidates, who did not possesses the qualification and passed the test. The selected candidates were also having experience like the petitioners, but found more efficient in passing the test.

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Keeping in view the aforementioned facts, I do not find any illegality or repugnancy in the impugned orders. Prayer of the petitioners do not call for judicial intervention of this Court under Article 226/227 of the Constitution of India. The writ petitions are devoid of merit and accordingly, the same are dismissed.

18.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No