

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

CWP No. 16892 of 2020
Date of decision: 03.11.2020

108

Neelam and another

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Azad Singh Nain, Advocate,
for the petitioners.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed under Articles 226 and 227 of the Constitution of India praying for issuance of a writ in the nature of mandamus directing respondent no. 3 to issue fresh gradation certificates for the sports achievements in terms of the government instructions/sports policy dated 30.11.1993 (Annexure P-6). Further direction is sought for selection as Clerk under Advertisement No. 5 of 2019, which was published on 20.06.2019 (Annexure P-1).

Notice of motion.

Mr. Shivendra Swaroop, AAG, Haryana accepts notice.

Admittedly, the said instructions stand superseded in view of the new policy which has been notified on 25.05.2018 (Annexure P-7) which is prior to the advertisement itself. The issue whether which of the certificates issued under the two instructions would entitle a candidate to become eligible for applying for the aforementioned posts was subject matter of consideration in ***LPA No. 1332 of 2019*** alongwith the other bunch

of cases, lead case of which is ***State of Haryana and another vs. Shankar and others***. The following conclusion was arrived at:-

“34. From the foregoing discussion, the following observations emerge out:-

(i) The candidates, who had applied for Group-D posts under the ESP Category, in pursuance of the advertisement No.4/2018 dated 25.05.2018 and have been selected accordingly, are required to submit the requisite Sports Gradation Certificates duly issued in terms of the new Policy dated 25.05.2018. However, it is clarified that the modified Policy, notified on 15.11.2018, shall not be applicable to the cases of such candidates because of its having been published after the date of the said advertisement and rather, even after the expiry of the last date for the submission of the application forms for the said posts.

(ii). The Certificates issued to or sought to be issued by the selected candidates under the old instructions dated 30.11.1993, will not be relevant/valid at all for ascertaining their eligibility for the Group-D posts under the ESP Category, as advertised on 25.08.2018.

(iii). Letter dated 24.07.2019, i.e Annexure P8, issued by the office of the Chief Secretary to Government of Haryana, requiring the selected candidates, who had not submitted the requisite Sports Gradation Certificates, as duly issued under the new Policy due to lack of awareness, does not suffer from any illegality and rather, it is an attempt on the part of the respondent-State to safeguard the interest of the otherwise eligible candidates by granting them concession to submit the said Certificates at such a later stage.

(iv). Keeping in view the afore-mentioned gesture

of the respondent-State, we are of the view that it will be in the interest of justice as well as in the fitness of the things if the candidates, selected for Group-D posts under the ESP category, are given a period of 15 days from the date of this order to apply for the issuance of the afore-said requisite Gradation Certificates in terms of the new Policy notified on 25.05.2018 and the competent authorities shall decide/ascertain their claim for issuance of the said certificate within a period of one month thereafter.

(v) However, it is also clarified here that in case the services of any candidate are terminated on account of his/her being ineligible for the issuance of the Sports Gradation Certificate in terms of the new policy dated 25.05.2018, such termination will not be construed to be stigmatic.”

Thus, it would be apparent that the Division Bench has come to a conclusion that certificates issued under the old instructions will not be relevant and valid for ascertaining the eligibility for the posts advertised on 25.08.2018. As per clause (iv) also, liberty had been given to candidates to apply under the new policy, which the petitioners are not wanting since apparently they do not fulfill the conditions as such. In such circumstances, once the old policy stands superseded by the subsequent policy and the Division Bench has already opined on the said issue, no relief can be granted to the petitioners.

Accordingly, the writ petition stands dismissed.

03.11.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No