

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15467-2018
Date of decision: 14.02.2020

Atma Ram

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Gunjan Mehta, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking quashing of order dated 30.05.2018 (Annexure P-8) whereby punishment of dismissal/removal has been imposed upon him.

The petitioner was appointed as Heavy Vehicle Driver Class B on contract basis on 20.06.2008 (Annexure P-1). Vide order dated 29.03.2012 (Annexure P-2), the services of the petitioner on the post of Heavy Vehicle Driver were regularized w.e.f. 30.09.2011 in the regular pay scale. Thereafter he continued to work on the said post as a regular employee. He was also granted 1st ACP w.e.f. 01.10.2016 as per letter dated 31.05.2017 (Annexure P-3) and he was confirmed as Driver vide order dated 13.06.2017 (Annexure P-4). However vide letter dated 10.01.2018 (Annexure P-5), show cause notice has been issued to him as to why punishment for dispensing his services may not be imposed. It was observed in this show cause notice that the petitioner had produced licence issued by the licensing authority Hissar No. A-47117 dated 17.04.1991,

which is issued to him when he was 17 years and 8 months as per his date of birth i.e. 07.08.1973. During enquiry it was found that he was below 20 years of age when he was issued driving licence to drive heavy motor vehicles. The petitioner gave reply (Annexure P-7) to the show cause notice. In this reply, he has clarified that his driving licence No. 80 – 47117 was issued on 17.09.1991 (wrongly typed as 19.09.1991) instead of 17.04.1991 and he had completed 18 years of age at that time when LTV driving licence was issued to him by the concerned authority. Subsequently heavy transport vehicle driving licence TR No. 3271/2004 was issued in 2004 and in this year he had completed 30 years of age. Hence, HTV driving licence issued in 2004 was also correctly issued by the licensing authority. Thereafter vide order dated 30.05.2018 (Annexure P-8), the services of the petitioner were dispensed with reiterating the same grounds mentioned in show cause notice dated 10.01.2018 (Annexure P-5). It was further observed in order dated 30.05.2018 (Annexure P-8), that the heavy vehicle driver licence cannot be given to a person below 20 years of age.

Learned counsel for the petitioner has placed on record copy of driving licence (Annexure P-6) in which the date of birth is given as 07.08.1973. The date of issuing license is 17.09.1991 which is issued to drive light motor vehicle (LMV). The heavy transport vehicle driving license TR No. 3271/2004 was issued in 2004 when he was 30 years of age and he could drive heavy transport vehicle.

On notice, written statement on behalf of respondents No. 1 to 3 has been filed.

Learned counsel for the State has vehemently argued while referring to para Nos. 5 and 6 of the preliminary submissions, that the date

of birth of the petitioner is 07.08.1973 and driving licence was issued to him on 17.04.1991 when he was 17 years, 8 months and 10 days old which was in violation of Section 4 of the Motor Vehicle Act, 1988.

Heard learned counsel for the parties.

A perusal of the written statement shows that the driver licence No. A47117 was issued in the name of Atma Ram S/o Shishpal R/o Shiv Nagar, Hisar on 17.04.1991 and it is nowhere stated that driving licence (Annexure P-6) is a wrong/forged document. It has not been disputed in the written statement that as per driving licence (Annexure P-6) there was endorsement made in the year 2004 to drive heavy motor vehicles.

A perusal of the driving licence (Annexure P-6) shows that the date of birth is mentioned as 07.08.1973. The date of issuing driving licence is 17.09.1991 which is issued to drive light motor vehicle (LMV). The heavy transport vehicle driving licence TR No. 3271/2004 was issued in 2004 when he was 30 years of age and he could drive heavy transport vehicle.

Once the endorsement of heavy transport vehicle is not being disputed by the respondents, the short question for consideration is whether the petitioner was eligible to drive heavy motor vehicle when he joined the Department? For all intents and purposes, the petitioner was eligible to join the duty on contract basis on 20.06.2008 as per Motor Vehicle Act, 1988. He had 4 years experience to drive heavy motor vehicles as per driving licence (Annexure P-6) and he was qualified to be appointed as Heavy Vehicle Driver. Further he was regularized and was granted 1st ACP. The petitioner had been working with the Department since 2008 and when show cause notice dated 10.01.2018 (Annexure P-5) was issued to him, he

had served for almost 10 years as Heavy Vehicle Driver. The respondents have taken a technical flaw that the date of issue of driving licence was 17.04.1991 whereas the driving licence was issued on 17.09.1991. The Department had no cause of action to issue show cause notice dated 10.01.2018 (Annexure P-5) and subsequently termination order dated 30.05.2018 (Annexure P-8).

Writ petition is allowed. Show cause notice dated 10.01.2018 (Annexure P-5) and termination order dated 30.05.2018 (Annexure P-8) are quashed. A direction is being given to the respondents to pay Rs.50,000/- as costs to the petitioner as the respondents terminated the petitioner without any sufficient ground.

(RITU BAHRI)
JUDGE

14.02.2020
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No