

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

1. L.P.A. No.1332 of 2019 (O&M)

Date of Decision: 09th October, 2020.

State of Haryana & Anr.

...Appellants

Versus

Shankar and Others

...Respondents

2. C.W.P. No.22637 of 2019

Sandeep Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

3. C.W.P. No.25565 of 2019

Mohit

..Petitioner

Versus

State of Haryana and others

..Respondents

4. C.W.P. No.22705 of 2019

Anil Kumar and others

..Petitioners

Versus

State of Haryana and others

..Respondents

5. C.W.P. No.22713 of 2019 (O&M)

Jitender Dhillon and others

..Petitioners

Versus

State of Haryana and others

..Respondents

6. C.W.P. No.22769 of 2019

Vinod Kumar and another

..Petitioners

Versus

State of Haryana and others

..Respondents

7. C.W.P. No.22723 of 2019

Sachin Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

8. C.W.P. No.22565 of 2019

Surender and others

..Petitioners

Versus

Haryana Staff Selection Commission and others

..Respondents

9. C.W.P. No.22625 of 2019

Tejinder Singh and others

..Petitioners

Versus

Haryana Staff Selection Commission and others

..Respondents

10. C.W.P. No.22993 of 2019

Sunil and another

..Petitioners

Versus

Haryana Staff Selection Commission and others

..Respondents

11. C.W.P. No.23333 of 2019

Deepak Kumar and others

..Petitioners

Versus

State of Haryana and others

..Respondents

12. C.W.P. No.23358 of 2019

Ajay and others

..Petitioners

Versus

State of Haryana and others

..Respondents

13. C.W.P. No.23368 of 2019

Pooja

..Petitioner

Versus

State of Haryana and others

..Respondents

14. C.W.P. No.23400 of 2019

Asha Yadav

..Petitioner

Versus

State of Haryana and others

..Respondents

15. C.W.P. No.23434 of 2019

Lovepreet Kaur

..Petitioner

Versus

State of Haryana and others

..Respondents

16. C.W.P. No.23541 of 2019

Sapna

..Petitioner

Versus

State of Haryana and others

..Respondents

17. C.W.P. No.24244 of 2019

Saina and others

..Petitioners

Versus

State of Haryana and others

..Respondents

18. C.W.P. No.24421 of 2019

Surender Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

19. C.W.P. No.24651 of 2019

Sonu

..Petitioner

Versus

State of Haryana and others

..Respondents

20. C.W.P. No.24519 of 2019

Anisha Rani and others

..Petitioners

Versus

State of Haryana and others

..Respondents

21. C.W.P. No.24547 of 2019

Ankit

..Petitioner

Versus

State of Haryana and others

..Respondents

22. C.W.P. No.24556 of 2019

Rakhi and another

..Petitioners

Versus

Haryana Staff Selection Commission and others

..Respondents

23. C.W.P. No.16753 of 2019 (O&M)

Pardeep Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

24. C.W.P. No.16816 of 2019 (O&M)

Anil Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

25. C.W.P. No.19686 of 2019

Sandeep Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

26. C.W.P. No.19524 of 2019

Vinay Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

27. C.W.P. No.17744 of 2019 (O&M)

Mukesh Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

28. C.W.P. No.18086 of 2019

Suresh Kumar ..Petitioner

Versus

State of Haryana and others
..Respondents

29. C.W.P. No.18993 of 2019

Chander Mohan.
..Petitioner

Versus

State of Haryana and others
..Respondents

30. C.W.P. No.19711 of 2019

Kuldeep Singh
..Petitioner

Versus

State of Haryana and others
..Respondents

31. C.W.P. No.18686 of 2019

Rohit Kumar and others
..Petitioners

Versus

State of Haryana and others
..Respondents

32. C.W.P. No.19514 of 2019

Ravinder Kalyan and others
..Petitioners

Versus

State of Haryana and others
..Respondents

33. C.W.P. No.18678 of 2019

Jony Kumar and others
..Petitioners

Versus

State of Haryana and others

..Respondents

34. C.W.P. No.23217 of 2019

Sandeep Khanna

..Petitioner

Versus

State of Haryana and others

..Respondents

35. C.W.P. No.22823 of 2019

Vikash

..Petitioner

Versus

State of Haryana and others

..Respondents

36. C.W.P. No.22826 of 2019

Sukhwinder Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

37. C.W.P. No.22829 of 2019

Mandeep

..Petitioner

Versus

State of Haryana and others

..Respondents

38. C.W.P. No.22940 of 2019

Dharamender

..Petitioner

Versus

State of Haryana and others

..Respondents

39. C.W.P. No.22964 of 2019

Krishan Kumar and others

..Petitioners

Versus

State of Haryana and others

..Respondents

40. C.W.P. No.25212 of 2019

Neeraj and others

..Petitioners

Versus

State of Haryana and others

..Respondents

41. C.W.P. No.24168 of 2019

Geena

..Petitioner

Versus

State of Haryana and others

..Respondents

42. C.W.P. No.25328 of 2019

Sapna

..Petitioner

Versus

State of Haryana and others

..Respondents

43. C.W.P. No.23707 of 2019

Sandeep and another

..Petitioners

Versus

State of Haryana and others

..Respondents

44. C.W.P. No.23717 of 2019

Ajay Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

45. C.W.P. No.23731 of 2019

Ankit Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

46. C.W.P. No.23770 of 2019

Ganesh Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

47. C.W.P. No.23787 of 2019

Vishnu Singh and another

..Petitioners

Versus

State of Haryana and others

..Respondents

48. C.W.P. No.23803 of 2019

Naveen

..Petitioner

Versus

State of Haryana and others

..Respondents

49. C.W.P. No.23805 of 2019

Deepak Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

50. C.W.P. No.23845 of 2019

Rohit Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

51. C.W.P. No.23846 of 2019

Rakesh

..Petitioner

Versus

State of Haryana and others

..Respondents

52. C.W.P. No.23917 of 2019

Rani

..Petitioner

Versus

State of Haryana and others

..Respondents

53. C.W.P. No.23924 of 2019

Sunil Kumar and another

..Petitioners

Versus

State of Haryana and others

..Respondents

54. C.W.P. No.23952 of 2019

Parveen

..Petitioner

Versus

State of Haryana and others

..Respondents

55. C.W.P. No.23966 of 2019

Suman Rani

..Petitioner

Versus

State of Haryana and others

..Respondents

56. C.W.P. No.23968 of 2019

Kanta Rani

..Petitioner

Versus

State of Haryana and others

..Respondents

57. C.W.P. No.23971 of 2019

Rita Choudhary

..Petitioner

Versus

State of Haryana and others

..Respondents

58. C.W.P. No.24015 of 2019

Pankaj Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

59. C.W.P. No.23919 of 2019

Manpreet

..Petitioner

Versus

State of Haryana and others

..Respondents

60. C.W.P. No. 23923 of 2019

Ankit and others

..Petitioners

Versus

State of Haryana and others

..Respondents

61. C.W.P. No. 24046 of 2019

Vikram

..Petitioner

Versus

State of Haryana and others

..Respondents

62. C.W.P. No. 24161 of 2019

Gurpyar Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

63. C.W.P. No. 26113 of 2019

Rohit Yadav

..Petitioner

Versus

State of Haryana and others

..Respondents

64. C.W.P. No. 23207 of 2019

Anil Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

65. C.W.P. No. 23208 of 2019

Preeti Balhara

..Petitioner

Versus

State of Haryana and others

..Respondents

66. C.W.P. No. 23232 of 2019

Mandeep Singh and others

..Petitioner

Versus

State of Haryana and others

..Respondents

67. C.W.P. No. 23287 of 2019

Sanjay Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

68. C.W.P. No. 23296 of 2019

Lokesh Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

69. C.W.P. No. 23303 of 2019

Ajay Kumar and others

..Petitioners

Versus

State of Haryana and others

..Respondents

70. C.W.P. No. 23337 of 2019

Kulvinder Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

71. C.W.P. No. 23344 of 2019

Akash

..Petitioner

Versus

State of Haryana and others

..Respondents

72. C.W.P. No. 23353 of 2019

Nikesh Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

73. C.W.P. No. 23369 of 2019

Sunil Kumar and others

..Petitioners

Versus

State of Haryana and others

..Respondents

74. C.W.P. No. 23371 of 2019

Krishan Singh and others

..Petitioners

Versus

Haryana Staff Selection Commission & Ors.

..Respondents

75. C.W.P. No. 23378 of 2019

Monika and another

..Petitioners

Versus

State of Haryana and others

..Respondents

76. C.W.P. No. 23380 of 2019

Ritu

..Petitioner

Versus

State of Haryana and others

..Respondents

77. C.W.P. No. 23411 of 2019

Krishan Lal and another

..Petitioners

Versus

State of Haryana and others

..Respondents

78. C.W.P. No. 23437 of 2019

Amar Pal and another

..Petitioners

Versus

State of Haryana and others

..Respondents

79. C.W.P. No. 23474 of 2019

Nirmal Devi

..Petitioner

Versus

State of Haryana and others

..Respondents

80. C.W.P. No. 23480 of 2019

Anju Devi

..Petitioner

Versus

State of Haryana and others

..Respondents

81. C.W.P. No. 23506 of 2019

Amita Kumari

..Petitioner

Versus

State of Haryana and others

..Respondents

82. C.W.P. No. 23540 of 2019

Monika and another

..Petitioners

Versus

State of Haryana and others

..Respondents

83. C.W.P. No. 23249 of 2019

Karam Vir Singh and another

..Petitioners

Versus

Haryana Staff Selection Commission and others

..Respondents

84. C.W.P. No. 23639 of 2019

Sona Devi and another

..Petitioners

Versus

State of Haryana and others

..Respondents

85. C.W.P. No. 24070 of 2019

Anuj Kumar and another

..Petitioners

Versus

State of Haryana and others

..Respondents

86. C.W.P. No. 24427 of 2019

Mukesh Kumar and another

..Petitioners

Versus

State of Haryana and others

..Respondents

87. C.W.P. No. 25752 of 2019

Vikash and others

..Petitioners

Versus

State of Haryana and others

..Respondents

88. LPA No.1999 of 2019 (O&M)

State of Haryana and another

..Appellants

Versus

Kartik Saluja and others

..Respondents

89. LPA No. 75 of 2020 (O&M)

State of Haryana and another

..Appellants

Versus

Arun and others

..Respondents

90. C.W.P. No. 23836 of 2019

Sulekh Singh and others

..Petitioners

Versus

State of Haryana and others

..Respondents

91. LPA No. 1975 of 2019 (O&M)

State of Haryana and another

..Appellants

Versus

Mushtafa and others

..Respondents

92. LPA No. 1977 of 2019 (O&M)

State of Haryana and another

..Appellants

Versus

Pratap Singh and others

..Respondents

93. C.W.P. No. 34070 of 2019

Shalini and another

..Petitioners

Versus

State of Haryana and others

..Respondents

94. C.W.P. No. 34036 of 2019

Joginder Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

95. C.W.P. No. 764 of 2020

Devinder Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

96. C.W.P. No. 1017 of 2020

Shankar

..Petitioner

Versus

State of Haryana and others

..Respondents

97. C.W.P. No. 1021 of 2020

Munesh Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

98. C.W.P. No. 2546 of 2020

Amit Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

99. C.W.P. No. 34923 of 2019

Himmat Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

100. C.W.P. No. 8551 of 2020

Rajesh Kumar and others

..Petitioners

Versus

State of Haryana and others

..Respondents

101. L.P.A. No. 2004 of 2019 (O&M)

State of Haryana and others

..Appellants

Versus

Kiranpal Kaur and others

..Respondents

102. C.W.P. No. 8173 of 2020

Sunita

..Petitioner

Versus

State of Haryana and others

..Respondents

103. C.W.P. No. 11007 of 2020

Aman Kumar

..Petitioner

Versus

State of Haryana and others

..Respondents

104. C.W.P. No. 9716 of 2020

Devender Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

105. C.W.P. No. 9745 of 2020

Sheker Dutt

..Petitioner

Versus

State of Haryana and others

..Respondents

(Heard through Video-Conferencing)

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

*** * ***

Present : Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Ms. Shruti Jain Goyal, DAG, Haryana for the appellants
in LPA Nos. 1332, 1975, 1977, 1999, 2004 of 2019 and 75 of 2020
and for respondent-State of Haryana in the writ petitions.

Mr. D. S. Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate for the applicant-interveners.

Mr. Gurminder Singh, Senior Advocate with
Mr. J. S. Gill, Advocate and
Mr. Jasbir Mor, Advocate for the petitioner
in CWP No. 22713 of 2019.

Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Shiv Kumar Sharma, Advocate and
Mr. Jasbir Mor, Advocate for the petitioners
in CWP Nos. 22823, 23480, 23207, 23353, 22940, 23952,

24070, 23966, 23971, 23344, 23731 of 2019.

Mr. R. K. Malik, Senior Advocate with

Mr. Samarat Malik, Advocate and

Mr. Sunil Hooda, Advocate for the petitioners

in CWP Nos. 22565, 23333, 22993, 24556, 25212, 24244, 22625 of 2019.

Mr. Vikas Malik, Advocate for the petitioners

in CWP No. 23358 of 2019.

Mr. Vijay Dahiya, Advocate for the petitioners

in CWP Nos. 23770 and 23805 of 2019.

Mr. Sushil Jain, Advocate for the petitioners

in CWP Nos. 25328 of 2019.

Mr. Jasbir Mor, Advocate for the respondents in

LPA No.1999 of 2019 and for the petitioners

in CWP Nos. 22705, 16753, 16816, 19686, 19524, 17744,

18086, 22826, 22829, 23707, 23717, 23787, 23803, 23968,

23208, 23232, 23287, 23296, 23474, 24427 of 2019 and 9716,

1021 of 2020.

Mr. Harender Singh, Advocate for the petitioner

in CWP No.34036 of 2019.

Mr. R. S. Mamli, Advocate for the petitioners

in CWP Nos. 18686, 19514, 18678 of 2019 and

8173, 8551 of 2020.

Mr. Gaurav Jain, Advocate for the petitioner

in CWP No.22964 of 2019.

Mr. Balraj Singh, Advocate for the petitioners

in CWP No. 25752 of 20

Mr. Anil K. Sharma, Advocate for the petitioner

in CWP No. 23923 of 2019.

Mr. Ramesh Sharma, Advocate for respondent No.7

in CWP No. 23803 of 2019.

Ms. Sonia G. Singh, Advocate for the petitioner

in CWP No.22723 of 2019.

Mr. Kamal Chaudhary, Advocate for

Mr. Sanjeev Gupta, Advocate for petitioners
in CWP Nos. 22637, 22769, 24421, 23540, 23639, 23845,
23924, 24519, 23303, 23378, 23437 of 2019.

* * *

MEENAKSHI I. MEHTA, J. :

This judgment shall dispose of the above-mentioned 06 Letters Patent Appeals (LPAs) as well as 99 Civil Writ Petitions (CWPs) as the common question of law is involved in all these cases.

2. The private respondents in all the LPAs and the petitioners in all the CWPs are the candidates who had applied for Groups 'D' posts, advertised by the Haryana Staff Selection Commission, Panchkula, (for short, 'the HSSC') on 25.08.2018 vide advertisement No.4/2018, under the category of Eligible Sports Persons (for short, "ESP").

3. Before advertng to the pleadings as set forth by the parties and the arguments as advanced on the merits of the cases in hand, we deem it expedient and appropriate to give a short resume of the background which has culminated in the entire afore-mentioned litigation. On 30.11.1993, the Government of Haryana had issued the instructions (here-in-after referred to as "the old instructions") for issuance of the Sports Gradation Certificates to Outstanding Sports Persons for the purpose of the reservation of seats for them in Technical/Medical Institutions as well as State Government services. However, on 25.05.2018, the Government notified a fresh policy (here-in-after referred to as "the new Policy"), in supersession of the above-said old instructions, for issuing the Sports Gradation Certificates to the ESPs for jobs and also for other purposes. The core question, having arisen out of the above-narrated facts and

circumstances, which requires to be answered for the purpose of deciding all the afore-said LPAs and CWPs, is as under:-

“Whether the Sports Gradation Certificate issued or sought to be issued in terms of the old instructions dated 30.11.1993 would entitle a candidate to become eligible for applying for the afore-mentioned posts, which have been advertised after the notification of the new policy, under the ‘Eligible Sports Person’ category or the Sports Gradation Certificate issued under the new Policy would be required for this purpose ?”

4. For the sake of brevity and to avoid the repetition of facts, **LPA No.1332 of 2019** is being taken as the lead case. This LPA has been preferred by the State of Haryana and another against the judgment handed down by learned Single Bench of this Court on 05.07.2019 whereby **CWP No.16856 of 2019**, preferred by petitioner Shankar (present respondent No.1) against the present appellants and proforma respondents No.2 to 5 with a prayer to direct respondents No.3 and 4 to issue the Sports Gradation Certificate in his favour in pursuance of the application moved by him on 11.09.2018, has been disposed of with the observations that the Department should pragmatically consider the request of the petitioner for issuance of the Sports Gradation Certificate in terms of Policy of 1993 and not 2018 Policy.

5. As per the brief-factual matrix as canvassed by the petitioner in said **CWP No.16856 of 2019**, the HSSC, vide advertisement No.4/2018 dated 25.08.2018, had advertised 18218 posts of Group-D Category, as were available in the different Departments of the State of Haryana. In pursuance of this advertisement, the petitioner intended to apply for his selection for the said post

under the Category of the Sports Persons as he had participated in several sports events and hence, he moved an application to the Sports Department, Haryana on 11.09.2018 with a prayer to issue the requisite Sports Gradation Certificate in his favour for the above-said purpose. However, the said Certificate was not issued to him. Then, he submitted his Application Form under the “Eligible Sports Persons in Scheduled Castes” Category and the HSSC issued the Admit Card and Roll Number to him for participating in the selection process and appearing in the written-exam. On 19.01.2019, the HSSC declared the final result qua the selection of the candidates for the said posts and his name found mention in the selection list of the candidates belonging to ESP-SC Category.

6. It has been further averred by the Writ-Petitioner that thereafter, he was allocated to the Animal Husbandry Department and on 28.05.2019, he was recommended for being appointed as Animal Attendant. On 05.06.2019, he was allocated to the office of the Deputy Director, Animal Husbandry and Dairy Department, Haryana, at Jind. He moved a representation to the Deputy Director, requesting therein to issue the appointment letter in his favour and to allow him to join the duty on the said post but the Department neither issued the requisite appointment letter nor allowed him to join the duty, while explaining that he would not be permitted to join the duty till he submitted the requisite Sports Gradation Certificate. Then, he again requested the District Sports and Youth Affairs Officer, Fatehabad vide application dated 13.06.2019 to issue the said Certificate to him but was told that the same could not be issued to him in terms of the new Sports Policy dated 25.05.2018 and

15.11.2018. The Department also refused to entertain his request for considering the Sports Gradation Certificate issued to him under the Policy dated 30.11.1993, i.e the old instructions.

7. Learned Single Bench, after hearing learned counsel for both the parties in the above-said CWP, passed the impugned order on 05.07.2019.

8. It is pertinent to mention here that during the pendency of the instant LPA, an application was moved under Order 1 Rule 8-A read with Order 1 Rule 10 as well as Section 151 CPC, with a prayer to implead the applicants as intervener-respondents No.6 to 11 in this appeal and the same has been allowed. Respondents No.6 to 8 have claimed that they were having Sports Gradation Certificates issued by the competent Authority in terms of the notification dated 25.05.2018 (the new Policy). Respondents No.9 to 11 had also applied for the posts of Clerks, i.e Group-C Category, in pursuance of the advertisement No. 5/2019, issued for this purpose and they have also averred that they have obtained the requisite Sports Gradation Certificates in terms of the new Policy and that the decision of this LPA will affect their rights also.

9. It is necessary to mention here that in several CWPs, the official respondents filed their written-statements contesting the claim of the concerned petitioners therein, inter-alia, on the grounds that the old instructions have been superseded by the new policy and as per Para 7 of the new policy, an applicant is not entitled to any benefit, including appointment under the sports quota, unless supported by the Sports Gradation Certificate of appropriate grade in the format Schedule-1. The new policy has been framed 25 years after the

issuance of the old instructions, in view of significant changes in the performance level of the sports persons in the State and also to streamline and rationalize the process of issuance of such certificates so as to bring transparency and fairness therein. The Gradation Certificates issued under the old instructions are no more relevant as these instructions were not in existence at the time of advertisement of the said posts. Learned Advocate General has also submitted that he would prefer to address arguments in all these cases even without filing the written statement in the rest of the cases.

10. We have heard learned counsel for both the parties in the present LPA as well as in all the connected cases and have also perused the files thoroughly. Since common question of law is involved in all these cases, therefore, we will be discussing the merits of the same jointly.

11. Learned Advocate General, Haryana, appearing on behalf of the appellant-State in the lead LPA, has pointed out that Annexure P-14 is the copy of the old instructions as circulated by the Chief Secretary, Haryana, providing guidelines for the issuance of the Sports Gradation Certificates in view of the performance of the outstanding sports-persons in the games at different levels, for the purpose of ascertaining their eligibility for the Government jobs besides other purposes as specified therein but thereafter, the Government has notified the new policy on 25.05.2018 for issuance of the Sports Gradation Certificates to the “Eligible Sports Persons” for jobs under the Sports Quota and other purposes and after the afore-said notification, the HSSC issued the advertisement bearing No.4/2018 (Annexure P-1) on 25.08.2018 for inviting

applications for Group-D posts wherein, in Note No. 9 as appended to Part 2.4 pertaining to the Regulatory Frame-Work, it has been specifically mentioned that the candidates applying under the ESP Category were required to submit the Sports Gradation Certificate issued by the competent authority as per the Government instructions and he has contended that this fact itself makes it quite explicit that the requisite Certificates were to be obtained under the Policy prevailing at that time, i.e. the new Policy. To buttress his contentions, he has placed reliance upon **Deepak Aggarwal and another vs. State of UP and others 2011 (6) SCC 725** and **N. C. Santosh vs. State of Karnataka and others 2020 (5) SCALE 293.**

12. Learned counsel for the intervener-respondents No.6 to 11 has also re-iterated the afore-discussed contentions as raised by learned Advocate General, Haryana.

13. However, learned counsel for respondent No.1 has argued that respondent No.1 (the writ-petitioner) had participated in several sports events at various levels during the period when the instructions dated 30.11.1993 (Annexure P-14) were in vogue and therefore, he was eligible for the issuance of the Sports Gradation Certificate in his name in terms of the above-said old instructions and since the new Policy came into existence on 25.05.2018 hence, the same could not be construed to affect the right of respondent No.1 to his selection on the seats, reserved under the sports quota, adversely and it being so, the petitioner cannot be denied the right to his recruitment on the said post under ESP category on the strength of the Certificate issued under the old

instructions. He has also relied upon Vikas Partap Singh and others vs. State of Chattisgarh and others 2013 (14) SCC 494; Bangalore Turf Club Limited vs. Regional Director, Employees State Insurance Corporation etc. 2015 AIR (SC) 221 and Krishna Kumari vs. State of Haryana and others 2012 (2) SCT 736, in support of his arguments.

14. However, we do not find any force in the arguments of learned counsel for respondent No.1 because undisputedly, the new Policy, as notified on 25.05.2018, was already in existence at the time of the issuance of advertisement No.4 of 2018 on 25.08.2018. A bare perusal of the said new Policy (Annexure P-15) reveals that its opening para begins with the following words:-

“In supersession of the instruction No.12/44/88-2GSI dated 30th November, 1993 issued by Chief Secretary to Government of Haryana.....”

Thus, the very first line of the new Policy makes it crystal clear that this Policy had been notified while superseding the old instructions (Annexure P14). Further, as per Note No. 9 appended to Part 2.4 of Regulatory Frame-Work in advertisement Annexure P-1, it has been specifically provided that:-

“... the eligible Sports Person shall be required to upload the Sports Gradation Certificate as per Government instructions duly issued by the competent authority.”

The afore-mentioned note in the said advertisement makes it quite explicit that the candidates applying for the seats reserved under the Sports

Quota, i.e ESP category, were required to upload their Sports Gradation Certificates, duly issued by the competent Authority as per the instructions of the Government, meaning thereby that the Sports Gradation Certificate, issued in terms of the policy, which was prevalent at the time of the issuance of the above-mentioned advertisement, i.e the new Policy dated 25.05.2018, was required to be submitted for being considered to be eligible to apply under the above-said category.

15. Then, Hon'ble Apex Court has made the following observations in

Deepak Aggarwal (supra):-

“22. It is by now a settled proposition of law that a candidate has the right to be considered in the light of the existing rules, which implies the `rule in force' on the date the consideration took place. There is no rule of universal or absolute application that vacancies are to be filled invariably by the law existing on the date when the vacancy arises. The requirement of filling up old vacancies under the old rules is interlinked with the candidate having acquired a right to be considered for promotion. The right to be considered for promotion accrues on the date of consideration of the eligible candidates. Unless, of course, the applicable rule, as in Y.V. Rangaiah's case (supra) lays down any particular time frame, within which the selection process is to be completed. In the present case, consideration for promotion took place after the amendment came into operation. Thus, it cannot be accepted that any accrued or vested right of the appellants have been taken away by the amendment.

The judgments cited by learned counsel for the appellants namely B.L. Gupta Vs. MCD (supra), P. Ganeshwar Rao Vs. State of Andhra Pradesh (supra) and N.T. Devin Katti & Ors. Vs. Karnataka Public Service Commission & Ors (supra) are reiterations of a principle laid down in Y.V. Rangaiah's case (supra).

XXXXXXXX

28. *Similarly, this view has been reiterated by this Court in the cases of State of M.P. & Ors. Vs. Raghuveer Singh Yadav & Ors. (supra), H.S. Grewal Vs. Union of India & Ors. (supra) and Rajasthan Public Service Commission Vs. Chanan Ram & Anr. (supra). This Court in Rajasthan Public Service Commission's case (supra) has held that it is the rules which are prevalent at the time when the consideration took place for promotion, which would be applicable. In Para 17, it has been held as follows :*

“In the case of [State of M.P. v. Raghuveer Singh Yadav](#) a Bench of two learned Judges of this Court consisting of K. Ramaswamy and N. Venkatachala, JJ., had to consider the question whether the State could change a qualification for the recruitment during the process of recruitment which had not resulted into any final decision in favour of any candidate. In paragraph 5 of the Report in this connection it was observed that it is settled law that the State has got power to prescribe qualification for recruitment. In the case before the Court pursuant to the amended Rules, the Government had withdrawn the earlier notification and wanted to proceed with the recruitment afresh. It was held that this was not the case of any accrued right. The candidates who had appeared for the examination and passed the written examination had only legitimate expectation to be considered according to the rules then in vogue. The amended Rules had only prospective operation. The Government was entitled to conduct selection in

accordance with the changed rules and make final recruitment. Obviously, no candidate acquired any vested right against the State. Therefore, the State was entitled to withdraw the notification by which it had previously notified recruitment and to issue fresh notification in that regard on the basis of the amended Rules.....””

Further, in the recently handed-down judgment in N. C. Santosh

(supra), the Hon'ble Apex Court has observed as under :-

“19. In the most recent judgment in State of Himachal Pradesh & Anr. v. Shashi Kumar, (2019) 3 SCC653, the earlier decisions governing the principles of compassionate appointment were discussed and analysed. Speaking for the bench, Dr. Justice D.Y. Chandrachud reiterated that appointment to any public post in the service of the State has to be made on the basis of principles in accord with Articles 14 and 16 of the Constitution and compassionate appointment is an exception to the general rule. The Dependent of a deceased government employee are made eligible by virtue of the policy on compassionate appointment and they must fulfill the norms laid down by the State's policy.

20. Applying the law governing compassionate appointment culled out from the above cited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependent of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her

application. He is however disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee.”

From the above-discussed observations, it becomes crystal clear that the policy in force or prevalent at the time of the advertisement of the posts for the Government jobs, would be relevant and shall be taken into consideration for the purpose of ascertaining the eligibility of the candidates for the category of the jobs covered under it. Resultantly, it is held that the Sports Gradation Certificate issued or sought to be issued under the old instructions, circulated on 30.11.1993, would not be relevant for applying for the said posts and rather, such certificate is required to be obtained in terms of the new policy dated 25.05.2018 to become eligible to apply for the same.

16. The observations as made by the Hon’ble Supreme Court in **Vikas Partap Singh (supra)**, **Bangalore Turf Club Limited (supra)** and by the Full Bench of this Court in **Krishna Kumari (supra)** are of no help to respondent No.1 to further his cause because in **Vikas Partap Singh (supra)**, the appellants were not responsible for the irregularity committed in the appointments and moreover, they had also undergone successful training and service of more than three years whereas in the present case, it is respondent No.1 who has failed to fulfil the eligibility criteria for his appointment on the post, reserved for the category of Eligible Sports Persons, by submitting the requisite Sports Gradation Certificate issued under the new Policy which was in force at the time of issuance of the advertisement for the said posts. Again, the

observations, as made in **Bangalore Turf Club Limited** (*supra*), are also not applicable to the present case as the facts and circumstances of the case in hand are distinguishable from those of the cited above. In the above-cited case, all that has been held is that in the case of beneficial legislation enacted for the welfare of the employees/workmen, a liberal rule of interpretation is to be adopted whereas in the instant case, the candidates are seeking appointment under the ESP category and to establish their eligibility for this purpose, they have to fulfil the condition of submission of the Sports Gradation Certificate issued under the new policy, as mentioned earlier. Further, the observations, as made by the Full Bench of this court in **Krishna Kumari** (*supra*), are of no avail to respondent No 1 in view of the afore-discussed observations made by Hon'ble Supreme Court in **Deepak Aggarwal** (*supra*) and **N.C. Santosh** (*supra*).

17. Learned counsel for the Writ-Petitioners have contended that the said new policy, as framed by the Government, is violative of Articles 14 and 16 of the Constitution of India as it deprives a number of the sports persons, who were issued or were entitled to obtain the Gradation Certificates under the old instructions, of the opportunity to be selected for the government jobs under the ESP category and hence, it is liable to be quashed on this score alone.

18. On the other hand, learned Advocate General for the State has vehemently argued that the State, being the employer, has every right to lay down the eligibility criteria for the selection of the best candidates amongst the lot to serve it and the new policy has been framed with a view to afford

opportunity to the sports persons having much better achievements to their credit.

19. However, we do not find the contention of learned counsel for the Writ-Petitioners to be tenable because it is the prerogative of the employer to settle the criteria for the jobs under a particular category so as to get the best employees to serve. Further, the old instructions only provided the parameters/ guidelines to be kept in view by the competent authorities while issuing the Sports Gradation Certificates for the purpose of ascertaining the eligibility of the candidates to apply for the seats reserved for the outstanding players in Technical/Medical Institutions and the State Govt. jobs and there is nothing in the same to suggest that such certificates were meant for vesting any right in the sports persons to get selected for the Government jobs under the Sports Quota.

20. Moreover, the new policy has been framed about 25 years after the issuance of the old instructions. In normal course of events also, the substantive as well as the procedural laws require the modifications, and amendments after such a long span of time so as to keep pace with the continuing change in the circumstances and situations and even our Constitution has witnessed more than one hundred amendments after its coming into force/effect. Moreover, in the recent times, the sportspersons of the State have been performing quite well even at the international level and it being so, the State having come up with the new policy qua the guidelines/parameters to be taken into consideration by the competent authorities, for issuing the said Gradation Certificates, well

commensurating with the performance level of the players of the State in the sports events, can, in no way, be termed to be violative of Articles 14 and 16 of the Constitution of India.

21. Learned counsel for the Writ-Petitioners have referred to Annexure P-8 (in CWP No.22713 of 2019), i.e the copy of the letter dated 24.07.2019 issued by the office of the Chief Secretary to Government of Haryana, requiring the selected candidates, who had not submitted the Sports Gradation Certificates issued under the notification dated 25.05.2018, i.e the new policy, to submit the same latest by 31.08.2019 and further providing that in the eventuality of their failure to submit the same by the afore-said date, the authorities may proceed to withdraw the offer of appointments or terminate the services of such candidates and they have contended that once the candidates were allowed to join the duty, such direction for submission of the said Certificate issued in terms of the new policy, was illegal.

22. Learned counsel for the petitioners in CWP No.22713 of 2019 has also referred to Annexure P-9, i.e. the letter dated 30.07.2019 issued by Deputy Director, Animal Husbandry and Dairy Department, Jind to petitioner No.1 requiring him therein to submit the afore-said requisite Certificate as issued in accordance with the instructions dated 25.05.2018 and 15.11.2018 and he has contended that the said letter is also liable to be set-aside/quashed because the petitioners were entitled to be considered as eligible for their appointment on the basis of the said certificates as issued to them under the old instructions.

23. However, we are afraid to agree with these contentions in toto

because as observed in the preceding paragraphs, the Policy/instructions in force at the time of the advertisement of the vacancies, i.e the new policy dated 25.05.2018, would be relevant for ascertaining the eligibility of the candidates for applying for the seats reserved for the category of Eligible Sports Persons and the Certificates, as issued under the old instructions, are not to be taken into consideration for this purpose.

24. As regards the issuance of the afore-mentioned letter dated 24.07.2019 (Annexure P-8), the same appears to be a concession given by the employer-State to the candidates, who did not acquire the Sports Gradation Certificates in terms of the new Policy due to the lack of awareness and they have been granted time to submit the same by 31.08.2019. Therefore, the said letter/order can, by no stretch of imagination, be held to be illegal or unreasonable.

25. However, so far as Annexure P-9, i.e the above-said letter dated 30.07.2019 requiring petitioner No.1 (in CWP No. 22713 of 2019) to submit the requisite Certificate in terms of the instructions issued by the Government on 25.05.2018 and 15.11.2018 is concerned, it is necessary to clarify here that Group-D posts were advertised on 25.08.2018 whereas the new Policy as notified on 25.05.2018 had been further modified vide notification dated 15.11.2018, i.e. after the said posts were advertised. It is well settled that the terms of the game cannot be changed when the game is being played or is already over. It being so, we are of the considered opinion that the candidates, who had applied and had qualified for their selection on the said posts, are

required to submit the requisite Sports Gradation Certificates issued by the competent Authority in terms of the new Policy dated 25.05.2018 and the above-said modified Policy cannot be made applicable to their cases.

26. Learned counsel for the petitioners in CWP No.22565 of 2019 has contended that the said letter dated 24.07.2019 (Annexure P-11) is illegal and is liable to be quashed/set-aside as it requires the petitioners to submit their Sports Gradation Certificates issued in terms of the Haryana Outstanding Sports Persons (Recruitment and Conditions of Service) Rules, 2018 whereas these Rules were notified on 05.09.2018 after the advertisement of the said posts on 25.08.2018.

27. However, it is worth-while to point it out here that the above-said Rules do not find any mention in the said letter dated 24.07.2018 which, as discussed earlier, rather, requires the competent authorities to direct/ask the selected candidates to submit their Sports Gradation Certificates as issued in terms of the notification dated 25.05.2018, i.e the new Policy. Thus, this contention is also sans any force.

28. Learned counsel for the petitioner in CWP No.18086 of 2019 has referred to Annexure P-16, the letter issued by the District Sports and Youth Affairs Officer, Kaithal, rejecting the application Annexure P-16 (Colly), as moved by the petitioner for seeking the issuance of the Sports Gradation Certificate, on the ground that the tournament wherein he (petitioner) had participated, was not covered under the new Policy as notified on 15.11.2018 and he has contended that this letter is liable to be quashed as the said policy is

not applicable to the case of the petitioner.

29. Again at the cost of repetition, we deem it expedient to clarify here that as observed earlier, the candidates, who had applied for Group-D posts under the ESP Category, are required to submit the Sports Gradation Certificate in terms of the new Policy dated 25.05.2018 and the modified Policy, which was notified on 15.11.2018, would not be applicable to their cases.

30. Further, learned counsel for the Writ Petitioners have also contended that the Sports Gradation Certificates as issued to several candidates under the old instructions dated 30.11.1993, have not been withdrawn by the competent authority while notifying the new policy for issuance of such Certificates for applying for the seats reserved under ESP category and therefore, the candidates, having certificates or entitled to obtain the certificates under the old instructions, should be considered as eligible for applying and being selected under the said category.

31. This contention also does not hold much water because as discussed in the preceding paragraphs, the new policy has been framed by the Government in supersession of the old instructions as mentioned in the opening para thereof and this fact, in itself, speaks volumes of the fact that the said certificates issued or sought to be issued under the old instructions would no more be valid for claiming eligibility for applying for and getting selected on the posts reserved for the said category and advertised on 25.08.2018.

32. Then, learned counsel for the Writ Petitioners have also contended that in case the candidates were not eligible for their selection on the basis of

the Sports Gradation Certificates issued or sought to be issued under the old instructions, then the State could not have allowed them to join the duty and the factum of several such candidates having been permitted to join the job, debars the respondent-State from taking the plea of the requirement of the said certificates issued in terms of the new policy.

33. However, this contention is also devoid of any force because as observed earlier, the new policy, notified on 25.05.2018, was applicable to the selection process of the Writ-Petitioners and in case, some of the selected candidates were issued the appointment letters and were also allowed to join the duty without submission of the requisite certificates, as issued under the new policy, this fact does not vest in them any right to continue in the job on the basis of their achievements in the sports events entitling them for issuance of the said Certificates under the old instructions because it is well settled that a person appointed on a post erroneously cannot be allowed to reap the benefits of such appointment as it would result in jeopardising the rights of meritorious and deserving candidates. To add to it, the respondent-State is not taking any decision arbitrarily by terminating their services without affording them the opportunity to submit the said requisite certificate in terms of the new policy and rather, as discussed earlier, it has issued letter Annexure P8 dated 24.07.2019 requiring them to submit the same within a given timeframe.

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.

35. On the basis of the afore-discussed observations, we deem it expedient and appropriate to proceed to decide the LPAs as well as the CWPs in hand by grouping the same together, wherever so required and feasible also, on the basis of the identical relief as claimed therein:-

36. **LPAs No.75, 1332, 1975, 1977, 1999, 2004 of 2019 (Bunch-A) (6 cases).**

All the said LPAs are allowed and the impugned orders passed by learned Single Bench therein on 05-07-2019 (LPAs No.1332 & 75 of 2019), 04-07-2019 (LPAs No. 2004 & 1977 of 2019) and 08-07-2019 (LPAs No.1999 & 1975 of 2019) are hereby set aside.

It is pertinent to mention here that in LPAs No. 1977 and 75 of 2019, the writ-petitioners, besides making a prayer for issuance of the said certificates under the policy dated 30.11.1993, had also prayed for the issuance thereof in terms of the new policy dated 25.05.2018 and modified policy dated

15.11.2018. As discussed earlier, the modified policy dated 15.11.2018 would not be applicable in the case of the candidates selected for Group-D posts as the same has been modified after issuance of the advertisement for these posts.

However, all these writ-petitioners shall be at liberty to apply for the issuance of the Sports Gradation Certificates as mentioned above in para No. 34(iv) of this judgment.

37. **CWPs No.18686, 23836 & 25565 of 2019 and No. 8173 & 11007 of 2020 (Bunch-B) (5 cases).**

In CWP No.11007 of 2020, the petitioner has assailed the legality of the notification dated 18.05.2018 (Annexure P5) and in the remaining afore-said writ petitions, the challenge, directly or indirectly, is to the new policy dated 25.05.2018 (as well as to the modified policy dated 15.11.2018 in CWPs No.25565 & 23836 of 2019 and 8173 of 2020) on the ground of the same being violative of Articles 14 & 16 of the Constitution of India and a prayer has been made to consider the certificates, as issued under the old instructions, for the appointment of the petitioners.

Keeping in view of the fact that Annexure P5 in CWP No.11007 of 2020 is also the letter as circulated by the Principal Secretary to Government of Haryana, Sports and Youth Affairs Department, containing the same guidelines for the issuance of the Sports Gradation certificates as were, later-on, notified as the new policy on 25.05.2018 and in view of the observations made earlier, CWPs No.18686 and 11007 of 2020 are hereby dismissed, whereas CWPs No. 25565 & 23836 of 2019 and 8173 of 2020 are also partly dismissed to the

extent of the challenge posed therein to the legality of the new policy dated 25.05.2018 but these are partly allowed to the effect that the modified policy dated 15.11.2018 shall not be applicable to the case of the petitioners therein. However, the liberty as mentioned in para No.34(iv) above is granted to all these petitioners.

38. CWPs No.18086, 23208 , 23287, 23296, 23344 ,23917, 24015, 24547, 25328, 26113, 34036 of 2019 and No.2546 of 2020 (Bunch-C) (12 cases).

In CWPs No.23296, 24015, 23208, 25328, 23344, 23287 of 2019 and CWP No.2546 of 2020, the petitioners have prayed for issuance of the Sports Gradation Certificates to them in terms of the old instructions dated 30.11.1993 or the new policy dated 25.05.2018 or the modified policy dated 15.11.2018. These petitions are allowed only to the extent that the petitioners therein are also granted the same liberty to apply for issuance of the said certificate in the same terms as specified in para No.34(iv).

In CWPs No. 25328 and 23287 of 2019, the petitioners have also prayed for quashing of the afore-mentioned letter/order dated 24.07.2019. Both these petitions stand partly dismissed to the extent of this prayer.

In CWPs No.23917, 24547 & 26113 of 2019, the petitioners have sought the issuance of a direction to the competent authority to issue the Sports Gradation Certificates in their favour in view of their achievements in the sports events. These petitions are also disposed of while granting liberty to the petitioners therein to apply for issuance of the said certificate under the new

policy dated 25.05.2018 in the same terms as mentioned in para No.34(iv).

As regards CWPs No.18086 & 34036 of 2019, the request of the petitioners for the issuance of the Sports Gradation Certificates in their names has been declined/rejected vide letters Annexure P-16 dated 12.09.2019, Annexure P-19 dated 17.09.2019 respectively, on the ground that they were not eligible for the issuance of the said certificates in view of the modified policy dated 15.11.2018. However, in view of our observations as made earlier, these petitions are hereby allowed only to the extent that the above-said letters are set aside and it is held that the petitioners are required to obtain the said certificates in terms of the new policy dated 25.05.2018 and they are granted the liberty to apply for the said certificates in the same terms as mentioned in para No.34(iv).

39. CWPs No.22565, 22705, 22713, 22823, 22826, 22940, 22964, 22993, 23353, 23358, 23368, 23369, 23380, 23400, 23434, 23480, 23639, 23707, 23731, 23770, 23805, 23846, 23923, 23968, 24046, 24168, 24556, 25752, 34923 of 2019 (Bunch-D) (29 cases).

In all these petitions, the petitioners have, latently or patently, assailed the above-said letter/order dated 24.07.2019, as issued by the office of the Chief Secretary to Government of Haryana, (Annexure P-8 in CWP No.22713 of 2019) requiring the selected candidates to submit the Sports Gradation Certificates issued in terms of the new policy dated 25.05.2018 as well as the letters issued by various Departments, consequent upon the issuance of Annexure P-8. These petitions are hereby dismissed. However, the liberty to apply for issuance of the requisite certificates under the new policy dated

25.05.2018 is granted to the petitioners in the same terms as specified in para No.34(iv).

40. CWPs No.23207, 23232, 23474, 23506, 23717, 23803, 23952, 23971, 24070, 24427 of 2019 and 764 of 2020 (Bunch-E) (11 cases).

In CWPs No. 24427, 23207, 24070, 23971 & 23952 of 2019 and No.764 of 2020, the petitioners have challenged the letter dated 16.08.2019 (Annexure P-9 in CWP No.764 of 2020) as issued by the office of the Director, Sports and Youth Affairs Department, Haryana, to all the District Sports and Youth Affairs Officers of the State clarifying therein that since the notification dated 25.05.2018 has been amended vide notification dated 15.11.2018, therefore, the Gradation Certificates are to be issued as per the updated/amended notification whereas in CWP No.23506 of 2019, the petitioner has impugned the letter dated 08.07.2019 (Annexure P-7) whereby a request has been made by the Deputy Director, Intensive Livestock Development Programme, Karnal, to District Sports and Youth Affairs Officer, Rohtak, for the issuance of Gradation Certificate to the petitioner as per the notifications dated 25.05.2018 and 15.11.2018.

As discussed earlier, the modified policy dated 15.11.2018 is not applicable to the candidates for Group-D seats advertised on 25.08.2018. Therefore, these petitions are allowed to the effect that the impugned letter dated 16.08.2019 and notice dated 08.07.2019 are set aside with the observations that the petitioners are required to submit the said certificates in terms of the new policy dated 25.05.2018.

In CWPs No.23474, 23717, 23232, 23952 and 23803 of 2019, the petitioners, besides challenging the above-said letter dated 16.08.2019, have also challenged the afore-said letter dated 24.07.2019. These petitions, so far as the challenge therein is to the afore-said letter dated 16.08.2019 are partly allowed with the same observations as made in the preceding para but as regards the prayer for quashing the letter dated 24.07.2019 as made therein, the same are partly dismissed.

However, the liberty to apply for issuance of the requisite certificates is granted to the petitioners in all these petitions in the same terms as specified in para No.34(iv).

41. **CWPs No. 22637, 22769 23303, 23378, 23437, 24519, 23540, 23845 & 24421 of 2019 (Bunch-F) (9 cases)**

In all these petitions (except CWP No.22637 of 2019), the petitioners have challenged the above-said letter dated 24.07.2019 or the letters/orders as issued on the basis thereof or the action of the respondents for not permitting them to join the duty on the ground of the requisite certificate, issued under the old instructions, being not valid for their appointment and they have also claimed the benefits at par with the similarly placed candidates along-with interest thereon @12% per annum whereas in CWP No.22637 of 2019, the petitioner has prayed for the quashing of the notice dated 17.07.2019 (Annexure P-4) wherein he has been asked to get the requisite certificate, issued as per the new policy dated 25.05.2018, verified as subsequently required vide letter dated 24.07.2019 also. In view of the observations as made earlier and also of the

fact that since the petitioners did not submit the requisite Gradation Certificates issued under the new policy dated 25.05.2018 and therefore, they cannot be held entitled to the afore-claimed benefits or the interest thereon, these petitions are hereby dismissed.

However, the liberty is granted to the petitioners in all these petitions in the same terms as mentioned in para 34(iv).

42. **CWPs No.22625, 23249, 23371 and 23919 of 2019 (Bunch-G) (4 cases).**

In these petitions, the afore-said letter dated 24.07.2019 has been challenged on the ground that Haryana Outstanding Sports Persons Rules, 2018 were notified on 05.09.2018 after the advertisement of the Group-D posts on 25.08.2018 but this letter requires the petitioners to submit the new Gradation Certificates in the light of the said Rules. However, it is again pertinent to mention here that a bare perusal of this letter reveals that there is not even a whisper about the said Rules therein and rather, the same requires the selected candidates to submit the requisite certificates under the new policy dated 25.05.2018. Therefore, these petitions also stand dismissed but the petitioners are afforded the same liberty as mentioned in para No.34(iv).

43. **CWPs No. 23337 & 23787 of 2019. (Bunch-H) (2 cases).**

In both these petitions, besides assailing the legality of letter dated 24.07.2019, both the petitioners in CWP No.23787 of 2019 have challenged letters dated 08.05.2019 as issued to them intimating therein that they could not be issued the requisite Gradation Certificates as they do not fulfil the eligibility

criteria under the new policy whereas in CWP No.23337 of 2019, the petitioner has challenged the letter dated 17.07.2019 (Annexure P-15) whereby his similar request has been declined. Both these petitions are disposed of with the observations that the petitioners shall be at liberty to move fresh applications as mentioned in para No.34(iv).

44. CWPs No.16753, 16816, 17744, 18678, 18993, 19514, 19711, 23217, 23333, 23411, 23966, 24161, 24244, 24651, 25212 of 2019 & No. 1017, 1021, 8551 & 9716 of 2020 (Bunch-I) (19 cases)

In these petitions, the petitioners have either made a request for issuance of the Sports Gradation Certificates in their favour in terms of the old instructions dated 30.11.1993 or they have prayed that they be considered eligible on the basis of such certificates or have challenged the action of the respondents for asking them to submit the said certificates as per the new policy dated 25.05.2018 but keeping in view the observations made earlier, all these petitions are hereby dismissed while granting the same liberty to the petitioners as specified in para No.34(iv).

45. CWP Nos. 19524 & 22829 of 2019 (Bunch-J) (2 cases)

In both these petitions, the petitioners are aggrieved for not being allowed by the respondents to join the duty on the ground that they have submitted the requisite certificates in respect of a different game than the one qua which they had uploaded the certificates at the time of applying for Group-D post. The Sports Gradation Certificates issued to the petitioners are annexed as P/11 in both these petitions. However, in case a candidate has achieved a

recognizable level of performance in two or more games, then, he should not be deprived of the benefit on the ground as mentioned above because he can avail the benefit to apply and to get selected on the strength of excelling in any of such games which entitles him/her to obtain the requisite certificate especially in the circumstances when vide afore-said letter dated 24.07.2019, the selected candidates who had not submitted the requisite certificates earlier, were granted the concession to submit the same within the timeframe mentioned therein. Therefore, the respondents are directed to consider the Sports Gradation Certificates, i.e Annexure P-11 for ascertaining the eligibility of both the petitioners for the said posts in accordance with Law/Rules. In case these certificates are also not found to be issued in terms of new policy dated 25.05.2018, then the petitioners will be at liberty to apply for the issuance thereof as mentioned in para No.34(iv).

46. **CWP No.19686 of 2019**

In this petition, the petitioner has challenged the order/letter dated 09.05.2019, i.e Annexure P-14, whereby his services have been ordered to be terminated on account of non-submission of the requisite Sports Gradation Certificate by him and he has also challenged the order dated 02.07.2019, i.e Annexure P-18, whereby his request for issuance of the said certificate has been declined on the ground that as per the new policy dated 15.11.2018, the same was not to be issued to him. In view of our observations as made earlier, this petition is allowed to the effect that both the above-said orders/letters are hereby set aside but the petitioner is required to submit the said certificate

issued under the new policy dated 25.05.2018 and he shall be at liberty to apply for the same in the same terms as specified in para No.34(iv).

47. **CWP No.22723 of 2019**

By way of this petition, the petitioner has assailed the order dated 30.07.2019, i.e Annexure P-13 whereby his request for issuance of Sports Gradation Certificate has been declined in view of the Sports Gradation Policy of 2018 without specifying as to whether it was declined in view of the new policy dated 25.05.2018 or the modified policy dated 15.11.2018.

As per the foregoing discussion, the petitioner was required to submit the said Certificate in terms of the new policy dated 25.05.2018. Resultantly, this petition stands partly allowed only to the effect that the impugned order Annexure P-13 is hereby set aside and that the petitioner will be at liberty to apply for the issuance of the requisite certificate as described in para No.34(iv).

However, as regards the prayer of the petitioner for issuance of the requisite certificate in his favour in terms of the old instructions as well as his prayer for directing respondent No.5 to allow him to join the duties and not to cancel his candidature on account of non-submission of the requisite certificate, this petition stands partly dismissed.

48. **CWP No.23924 of 2019**

In the petition in hand, petitioner No.1 seeks the quashing of the letter dated 16.08.2019, i.e Annexure P-12 whereby he has been issued a show cause notice for termination of his services due to non-submission of the

requisite Sports Gradation Certificate by him. Petitioner No.2 has assailed the legality of Annexure P-11, i.e. letter dated 22.08.2019 wherein he has been granted the last opportunity to submit the requisite Gradation Certificate while further intimating him that otherwise, his appointment letter would be cancelled or services would be terminated. As observed in the preceding paragraphs, the candidates for Group-D posts were required to submit the Sports Gradation Certificates issued under the new policy dated 25.05.2018. Therefore, the present petition stands disposed of while observing that the petitioners are at liberty to apply for the issuance of the said certificates as specified in para No.34(iv).

49. **CWP No. 34070 of 2019**

In this petition, the petitioners have impugned the letter dated 20.06.2019 (Annexure P/8 Colly) whereby they have been intimated that the Sports Gradation Certificates could not be issued to them as per the new policy issued on 25.05.2018 and 15.11.2018.

This petition is also disposed of with the observations that the modified policy dated 15.11.2018 is not applicable to the case of the petitioners and rather, they are required to submit the said certificate as issued in terms of the new policy notified on 25.05.2018 and they are also granted the same liberty to apply for the issuance of the said certificate as mentioned in para No.34(iv).

50. **CWP No.9745 of 2020**

The petitioner, by way of this petition, has impugned the letter dated 30.06.2020 (Annexure P/11) whereby respondent No.3 has withdrawn the

appointment letter dated 29.06.2020 (Annexure P/9) as issued to him, on the ground that the Sports Gradation Certificate uploaded by him while applying for the said post was not in accordance with the State policy notified on 25.05.2018 and it has also been clarified therein that the appointment letter would be issued again on submission of the correct certificate by him. As discussed earlier, the petitioner is required to submit the said certificate as issued under the new policy dated 25.05.2018.

Resultantly, this petition is dismissed while granting the liberty to the petitioner in the same terms as specified in para No.34(iv).

51. **CWP No.23541 of 2019.**

In this petition, the petitioner has sought the quashing of the order dated 26.08.2019 (Annexure P-9) as passed by respondent No.3 declining her request for the issuance of the Sports Gradation Certificate in her favour. As observed earlier, the candidates selected for the said post are required to submit the requisite certificates issued under the new policy dated 25.05.2018 whereas, in Annexure P-9, District Sports and Youth Affairs Officer, Kurukshetra, i.e the competent authority for issuing the requisite certificate for Group-D posts, has specifically mentioned that such certificate could not be issued to her according to the new policy dated 25.05.2018. The petitioner has not been able to come forward with any ground to show as to how this letter is illegal or arbitrary. Rather in para No.15 of her petition, she herself has pleaded that this order/letter is contrary to the instructions dated 30.11.1993 whereas as observed earlier, these instructions have been superseded by way of notification

of the new policy on 25.05.2018. Hence, this petition is dismissed.

All the present LPAs and CWPs stand disposed of.

**(DAYA CHAUDHARY)
JUDGE**

**(MEENAKSHI I. MEHTA)
JUDGE**

09th October, 2020.
monika/seema

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>