

124 IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CWP-18561-2020(O&M)

Date of decision: 05.11.2020

Vikram Bhardwaj

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Raje Ram Kaushik, Advocate for the petitioner

Mr. Samarth Sagar, Addl. AG, Haryana

ANIL KSHETARPAL, J. (ORAL)

This petition under Article 226/227 of the Constitution of India has been filed with the following substantive prayers:-

“(i) Issuance of a order, direction or a writ especially in the nature of mandamus directing the respondent to consider this writ petition as representation and decide the case of the petitioner on merits as per law and in the light of judgment passed by this Hon’ble Court in LPA No. 1332 of 2019 in a time bound period.

(ii) Any other appropriate writ order or direction which this Hon’ble Court may deem fit and proper in the present facts and circumstances of the case.”

The petitioner herein claims the benefit of having played the sport of Volleyball in National School Games 2014-15. The aforesaid games were held by the School Games Federation of India. On the basis of the certificate of participation, the Department of Sports and Youth Affairs, Haryana issued a certificate on 4.6.2016 declaring that the petitioner is B-II

grade Sportsman in Volleyball.

State of Haryana, thereafter, issued guidelines on 25.5.2018 for issuance of sports gradation certificates to eligible sports persons for jobs under sports quota and other purposes. As per the policy, the eligibility is defined in clause 3, which reads as under:-

“3. Eligiblity

- (i) The sportsperson plays for Haryana State at national level or
- (ii) The sportsperson in Haryana domicile and does not represent State/UT other than Haryana at national level.”

Further category of tournament which has been recognized has been specified in clause 5, which is extracted as under:-

“5. Category of Tournaments.

The tournaments are categorized in decreasing order of level of competitive difficulty as per the following table:-

Cate gory no.	Tournament	Organising Authority
1	Olympics	International Olympic Committee (IOC)
	Paralympics	International Paralympics Committee (IPC)
2.	4 year World Championship (restricted to Sports disciplines played in Olympics/Paralympics)	International Federation of concerned game, recognized by IOC/IPC
3.	Asian Games	Olympic Council of Asia
	Para Asian Games	Asian Paralympic Committee
	Youth Olympics	IOC

4	Commonwealth Games	Commonwealth Games Federation
	Commonwealth Games (Para Athletes)	
	Youth Asian Games	Olympic Council of Asia
5	Other World/International Championships	International Federation of the concerned game, recognized by the IOC
	Youth Commonwealth Games	Commonwealth Games Federation
	Deaflympics	International Committee of Sports for the Deaf (only those recognized by IOC)
	Special Olympics	Only those which are recognized by IOC
	IPC World Cup/ Championship (Held annually or biennially)	IPC
	IBSA World Championship	International Blind Sports Federation
6.	World University Games	International University Sports Federation
7.	Other Asian/Commonwealth Championship	Asian Federation of the concerned game, affiliated to the Olympic Council of Asia/ International Federation/ Commonwealth Games Federation
8.	SAF Games	South Asian Games Federation
9.	International/ Domestic Cricket Test/ One Day	ICCF/BCCI
	Blind Cricket World Cup (held in four years)	World Blind Cricket Council
10.	National Games	Indian Olympic Association
11.	National Championship	National Federation Affiliated to IOA/Ministry of Sports & Youth Affairs (GOI)
12.	National School Games/Khelo India/ All Indai Inter University Games/ All India Women Sports/ All India Civil Services / All India Police/ All India Rural Sports etc.	School Games Federation of India/ AIU/ Ministry of Sports & Youth Affairs (GOI)
13.	State Games/State Women Sports/ State School/ State Rural & Panchayats/ State Inter-University	Haryana State Association recognized by the concerned National Federation affiliated to IOA/Department of Sports & Youth Affairs (Haryana)

This policy decision was considered by the Division Bench in LPA-1332-2019 decided on 9.10.2020. One of the contention examined by the Division Bench was with regard to applicability of the policy with regard to sportsmen who have already been issued certificates under old policy. The Hon'ble Division Bench noticed the arguments in para 17 and thereafter, examined the same in para 19 and 33, which are extracted as under:-

“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. xxxx

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 to 32 xxxx

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.”

The petitioner applied for appointment to group 'D' post pursuant to recruitment notice dated 25.8.2018 whereas the new policy was issued on 25.5.2018. It is not in dispute that the petitioner did not participate in the National School Games held by School Games Federation of India/AIU/Ministry of Sports and Youth Affairs. Thus, the petitioner is not eligible for sports gradation certificate as per policy dated 25.5.2018. Still further, the Division Bench on the basis of concession granted by the State, while disposing of the writ petition directed that the candidates selected for Group D posts under eligible sports person category shall be entitled to apply for issuance of gradation certificates in terms of the new policy notified on 25.5.2018 within 15 days from the date of the judgment.

The relevant clause no.(iv) of para 34 is extracted as under:-

“(iv) Keeping in view the aforementioned 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 aforesaid requisite Gradation certificates in terms of the new policy notified on 25.5.2018 and the competent authorities shall decide/ascertain their claim for issuance of the said certificate within a period of one month thereafter.”

Learned counsel for the petitioner contends that the petitioner

went to the office of the District Sports Officer on 20.10.2020 but there was no clarity. On the other hand, Sh. Samarth Sagar, Addl. AG, Haryana on instructions from Sh. Azad Singh Toor, Deputy Superintendent, Sports Department, Haryana, has contended that the petitioner never visited the office of the District Sports Officer on 20.10.2020. Thus, the application submitted by the petitioner on 26.10.2020 is also beyond the time specified by the Division Bench. In view thereof, this Court finds that the petitioner has failed to make out a case for issuance of a writ as prayed for.

Hence, dismissed.

05.11.2020
rekha

(ANIL KSHETARPAL)
JUDGE

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