

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 5084 of 2018

Date of decision : January 13, 2020

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Sombir

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Rajat Mor, Advocate for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

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RITU BAHRI, J.

By way of the present petition, the petitioner is seeking directions to the respondents to interview the petitioner for the post of driver as his candidature had been rejected though the candidates securing lower marks to the petitioner had been called for interview which was conducted from 25/02/2018 to 01/03/2018 vide notice dated 12/02/2018 pursuant to the advertisement dated 18/05/2017 (Annexure P-1).

On 01/03/2018, the notice of motion was issued by this Court. The respondents were directed to interview the petitioner provisionally, however, it was ordered that his results shall not be pronounced till further orders. On 10/04/2019, learned State counsel produced the result of the petitioner in a sealed cover. As per the result, the petitioner secured 94 marks in written examination and 11 marks in viva voce under SC category which was higher than the last candidate who had secured 79 marks.

When the result of the petitioner was opened in the court, learned State counsel sought time to file reply with regard to the eligibility of the petitioner. On the next date of hearing, learned State counsel again sought time to file a better affidavit explaining as to whether at the time of scrutiny of documents licences were produced by the petitioner.

As per the short reply filed on 15/04/2019 by the Secretary (legal), Haryana Staff Selection Commission on behalf of respondent No. 2, the eligible candidates along with the petitioner were called for the scrutiny of documents vide notice dated 10/02/2017 i.e Annexure P5. The petitioner was held ineligible as he was not having three years' experience of driving heavy transport vehicle which was the prerequisite qualification for filling up the form. The driving licence of the petitioner has also been annexed with this reply, wherein it is clearly stated that the holder of the licence is authorised to drive transport vehicle from 15/08/2014 and the last date for filling up the form was 24/06/2017 and accordingly, the petitioner possessed licence for less than 3 years to drive transport vehicle and hence the petitioner did not possess the pre requisite qualification of three-year experience for driving the heavy transport vehicle. With respect to Annexure P-2 (colly.) it is submitted that the petitioner has only submitted

his driving license Annexure R-2/1 with the application form and no other document was submitted by him with his application form.

An affidavit by Secretary (legal), Haryana Staff Selection commission has been filed in the court today on behalf of respondent No. 2, and the same is taken on record. With regard to the eligibility of the petitioner, it has been mentioned therein that the petitioner produced the licence at the time of scrutiny of documents on 12/12/2017 at Workshop Haryana Roadways Gurugram. Photocopy of the licence produced has been annexed with the reply. At the time of scrutiny of documents, the petitioner was found “not eligible” as the driving licence which the petitioner produced during the scrutiny of documents was of dated 15/08/2014 whereas the closing date for submission of application form was 24/06/2017 i.e the petitioner was not fulfilling the relevant eligibility criteria of 3 years experience on the last date for submission of application form for the post in question. It has further been stated in the reply that it was clearly mentioned in the driving licence which the petitioner produced during the scrutiny of documents that petitioner has been issued driving licence for LMV, PSVBUS, TRANS on 12/08/2002, 15/08/2014 and 15/08/2014 respectively. Copy of scrutiny format along with documents which the petitioner submitted during the scrutiny of documents annexed with the reply is Annexure R-2/2. The heavy vehicle driver experience of petitioner starts from 15/08/2014, whereas cut-off date for submission of application forms is 24/06/2017. Thus the petitioner was not possessing the three-year experience as heavy vehicle driver which was one of the main eligibility conditions for the post in question. Therefore, during the scrutiny of documents, the petitioner was rightly considered “not eligible” for the post

in question. Along with the reply, an experience certificate dated 18.6.2017 issued by the Bahadurgarh Public Carrier Union Bahadurgarh has also been annexed and as per this certificate, the petitioner had been working with them as a driver since 10/05/2003 and he was having driving license No.N-120/J/02. He was being paid salary at the rate of Rs. 9000/- per month. The experience certificate has also been annexed with the writ petition as Annexure P-2 (Colly.) along with the certificate issued by the licensing authority-cum- secretary, RTA Jhajjar at Bahadurgarh. As per the certificate, the number of licence of the petitioner-Sombir was N-120/J/2002 which was valid from 12/08/2002 to 12/08/2005, 18/08/2005 to 15/08/2008, 26/08/2008 to 14/08/2011, 19/08/2011 to 14/08/2014 and 01/09/2014 to 14/08/2017. In the reply filed on behalf of the respondents, neither the certificate issued by the licensing authority-cum-Secretary RTA Jhajjar at Bahadurgarh nor experience certificate issued by the Bahadurgarh Public Carrier Union Bahadurgarh has been disputed. Rather, they have annexed the experience certificate of the petitioner along with the reply.

Heard counsel for the parties and gone through the records of the case. The case of the petitioner cannot be rejected on the ground that he was not having experience of 3 years. Rather, keeping in view the marks obtained by the petitioner that is 94 marks in written examination and 11 marks in viva voce totalling 105 which is higher than the last candidate who secured 79 marks, petitioner is found fully eligible for the post of driver.

Resultantly, respondent no.2-Haryana Staff Selection Commission is directed to recommend the case of the petitioner for appointment within 15 days from the date of receipt of certified copy of this

order and thereafter, respondent no.3-General Manager, Haryana Roadways, Gurugram will issue appointment letter to him within next 15 days. The petitioner will be given appointment notionally from the date, persons junior to him have been appointed along with all consequential benefits.

Allowed accordingly.

January 13, 2020
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No