

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 5198 of 2018

Date of decision : January 08, 2020

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Ram Murti

.....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. Kanwal Goyal, Advocate for the petitioner.

Mr. Harish Nain, Additional Advocate General, Haryana.

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RITU BAHRI, J.

Through the present petition the petitioner has challenged the list dated 12/02/2018 (Annexure P-9) whereby petitioner's candidature has been rejected and he was not called for the interview. As per the advertisement dated 18/05/2017 (Annexure P-1), respondent no.2-Haryana Staff Selection Commission, Panchkula (hereinafter referred to as 'the Commission') advertised 2038 posts of Heavy Vehicle Driver, out of which, 20 posts were reserved for Outstanding Sports Persons (OSP) General Category. The petitioner applied for the post of heavy vehicle driver under OSP General Category

On 1.3.2018, at the time of issuing notice of motion, a direction was given to the respondents to interview the petitioner provisionally. It was further ordered that the result of the petitioner shall be kept in a sealed cover. On 22/10/2019, the State Counsel produced the result of the petitioner in a sealed cover. As per the result, the petitioner obtained 84 marks under OSP General Category, whereas cut-off marks were 30. On that date, the State Counsel sought time to file an affidavit in this regard.

As per the reply filed on 07/01/2020, the petitioner appeared for the written examination which was held on 06/08/2017. The result of the written examination was declared by the Commission on 10/11/2017 in which the petitioner was shown as one of the shortlisted candidates. The shortlisted candidates including the petitioner were called for scrutiny of documents and driving proficiency test on 14/11/2017 vide notice dated 10/11/2017. The petitioner appeared for scrutiny and driving test on 14/11/2017. During scrutiny of documents, it was found that the petitioner applied under OSP General Category but the petitioner was not having certificate of OSP General Category. In fact, at the time of filling up of application form, the petitioner was not having certificate of OSP General Category duly issued by the competent authority. Rather, he applied for the Sports Gradation Certificate after the scrutiny of documents. Therefore, the petitioner was declared not eligible for the post of Heavy Vehicle Driver as he was not fulfilling the required eligibility for the post in question on the cut-off date. In compliance with order of this court dated 01/03/2018, the petitioner was provisionally interviewed on 28/03/2018. Copy of attendance sheet for interview has been annexed with the reply as Annexure

R-2/1.

The only question that remains to be decided is whether the respondents were justified in rejecting his candidature at the stage of scrutiny of documents.

The issue that has been raised in the present writ petition has already been decided by this Court in the case of '**Sandeep Versus State of Haryana and others**' in **CWP No. 4920 of 2018** decided on **11/05/2018**. In this case also, the candidature of the petitioner for the post of Heavy Vehicle Driver in the category of Outstanding Sports Persons General Category was rejected for non-production of Sports Gradation Certificate at the time of scrutiny of documents. According to the respondents, the said certificate should have been available on the last date mentioned in the advertisement. During the pendency of the writ petition, this court ordered the petitioner be provisionally interviewed. At the time of interview, he produced a valid Sports Gradation Certificate. The petitioner secured total 87 marks and the last selected candidate in OSP General Category secured 78 marks. Reference was made to a judgment passed by this court in **Neeraj vs. State of Haryana and others (CWP No. 18879 of 2017)** decided on **27/11/2017**, wherein it was held that so long as the Sports Gradation Certificate is genuine and the tournaments on the basis of which, the same has been issued have been held prior to the last date provided in the advertisement, a candidate cannot be denied consideration. The said judgment became final as no LPA had been filed against the same. In view of the aforementioned judgment the writ petition was allowed while holding that the respondents were not justified in rejecting the petitioner's candidature at the stage of scrutiny of documents. The tournaments on the basis of which the Sports Gradation certificate has been issued were held

much prior to the cut-off date prescribed in the advertisement.

The present case is squarely covered by the aforementioned judgment. In this case even though the Sports Gradation Certificate was issued after the scrutiny of documents, however, it related to the Sports event which was held much before the cut off date. Moreover, even in the Advertisement dated 18.5.2017 (Annexure P-1), there was a condition that the Sports Gradation Certificate is required to be produced at the time of interview. Hence, for all intents and purposes, the petitioner was eligible for selection to the post of Heavy Vehicle Driver under the OSP General Category.

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-Director General of Transport Department Haryana, Chandigarh 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 08, 2020

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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No