

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

CWP-18396-2021

Date of decision: 16.09.2021

Rajbir Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sukesh K. Jindal, Advocate,
for the petitioner.

Ms. Rajni Gupta, Additional A.G., Haryana.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein, an ex-contractual employee is, *inter alia*, against clause '**Educational Qualification**' of the advertisement of year 2007 (Annexure P-1) wherein the educational qualification for the post of contractual driver was prescribed as Matriculation.

2. Petitioner claims himself to be matriculate by virtue of a certificate dated 26.06.1990 (Annexure P-11) issued by a certain Board (Board of Adult Education and Training, New Delhi). He applied for the post in question and was issued an appointment letter dated 21.06.2008 (Annexure P-3), Clause 8 wherein stated as below:-

8. *Attested copies of educational and professional qualifications and matriculation certificate shall be furnished. The document pertaining to your qualification, experience, age and caste/category, as claimed by you in the application form shall be got checked/verified by the concerned General Manager, Haryana Roadways. If it is found that there is material discrepancy in the educational/professional qualifications, age, caste, reservation benefit under ex-service men or outstanding sportsmen etc. and experiences that you had claimed in the application then this offer of appointment shall be treated as null and void.*

3. In compliance of the aforesaid condition of the appointment letter, the petitioner failed to establish that he is a matriculate and vide impugned order dated 27.06.2012 (Annexure P-7), his services were terminated.

4. Instant writ petition has been filed to impugn the said order passed way back in year 2012, justifying the delay on the ground that petitioner had earlier approached the competent authority vide an appeal which was decided on 15.03.2019 (Annexure P-8). Notwithstanding, he still remained sanguine by virtue of a mercy appeal preferred before the Administrative Secretary of the Department, which was though not maintainable under law, but the same since remained pending and, therefore, the delay is ostensibly justified in approaching this Court. Eventually, the aforesaid mercy appeal was simply filed by the Administrative Secretary without looking into the same in view of the earlier appellate order dated 15.03.2019 (Annexure P-8) passed by respondent No.2.

5. Be that as it may, the petitioner has, at this stage, filed the writ petition impugning the aforesaid clause of the advertisement of year 2007, as well as the appellate order of year 2012.

6. On advance service, learned State counsel joins proceedings and submits that writ petition is not maintainable on the ground of delay alone.

7. Having heard arguments, no grounds are made out to interfere. The advertisement is of the year 2007 and it is too belated to challenge the condition of matriculation incorporated therein, now in year 2021. In any case, it is settled position that challenge to any condition of the advertisement has to be at the appropriate stage and not after unsuccessfully participating in the selection process. As regards the non-acceptance of the

claim of his matriculation certificate by the department, on a Court query, learned counsel for the petitioner does not controvert that the certificate dated 26.06.1990 (Annexure P-11) qua the matriculation of the petitioner has been issued by a Board, which is not a recognized Board by any State Government or the Central Government.

9. Being so, as already observed, it is too belated to challenge the mandatory condition of being a matriculate.

10. Dismissed.

16.09.2021

vandana

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No