

224-E

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

CWP-34589-2019 (O&M)
Date of decision : 16.03.2021

Rahim Khan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Sunil Hooda, Advocate for the petitioner.

Mr. Shivendra Swaroop, AAG, Haryana.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J. (ORAL)

Learned Senior Counsel candidly submits that this matter is covered by the judgment passed by the Division Bench in **LPA-1332-2019 titled as State of Haryana and another Vs. Shankar and others, decided on 09.10.2020**. He submits that liberty be given as per para 34(iv) of the said judgment, in order to apply for the requisite Gradation Certificate in terms of the Policy notified on 25.05.2018. The Division Bench held as under:-

“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.”

Learned counsel for the State can have no objection to such course of action in view of Clause (iv).

Since, the present writ petition was pending and the authorities in their wisdom may deny the petitioner the necessary consideration on account of the limitation which was laid down by the Division Bench, accordingly, the present writ petition is disposed of with the aforesaid liberty.

Keeping in view the abovesaid fact, the petitioner is granted liberty to apply for the requisite Gradation Certificate in terms of the judgment passed by the Division Bench within a period of 15 days from today.

If the requisite Certificate is issued to the petitioner by the Sports Department, the petitioner's case will be considered as per his eligibility.

Interim order dated 28.02.2020, whereby no appointment was to be made against the Sports Category under Category No.3 for the post of Junior Engineer (Electrical) in the Irrigation and WR Department, under Category No.17 for the post of Junior Engineer (Electrical) in HVPNL, and under Category No.27 for the post of Junior Engineer (Electrical) in PWD (B&R) Department against Advertisement No.10 dated 15.06.2019, will continue till the petitioner's case is considered.

16.03.2021

Pawan

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No