

213-9

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: November 15, 2022
CWP-6916-2019 (O&M)

Parveen Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Mohammad Arshad, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

Mr. Abhimanyu Singh, Advocate,
Mr. Shiv Kumar Rana, Advocate for respondent No.5.

Mr. Shivam Malik, Advocate for
Mr. Anurag Goyal, Advocate for respondent No.6.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for quashing impugned action of the respondent-Commission whereby the candidates who does not fulfill the requisite criteria for selection of Heavy Vehicle Drivers have been selected on the said post. Further, issuance of a writ in the nature of mandamus directing the respondents to consider the candidature of petitioner for the said post under general category.

2. First, succinct factual background, as pleaded in the petition. Respondent No.2-Commission issued an advertisement No.4/2017 dated 18.05.2017 (Annexure P-1) for various posts including Heavy Vehicle Driver. Petitioner applied for the post of Heavy Vehicle Driver under OSP-

General Category. Result for written examination was declared and petitioner was called for Scrutiny of Documents-cum-Driving Proficiency Test. Thereafter, respondent-Commission called the candidates for interview, but the petitioner was not called for the same. As per OMR sheet, petitioner has secured 120 marks in written examination and last selected candidate secured 98 marks in general category. Petitioner approached the respondent-Commission and submitted his representation, in this regard. In the earlier round of litigation, petitioner approached this Court by way of CWP-7275-2018, which was disposed of vide order dated 22.03.2018 (Annexure P-14) with the observation that the claim of the petitioner is declined, the respondent-authority shall pass a comprehensive order assigning reasons in support thereof. Pursuant thereto, respondent-Commission passed speaking order dated 13.04.2018 (Annexure P-15) rejecting the claim of the petitioner.

It is further pleaded that respondents No.3 to 6 were wrongly considered for the post in question as they are juniors to the petitioner as per age comparison.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. In the return dated 21.01.2020 filed on behalf of respondent No.3, following stand has been taken in Paras-5 & 6, relevant whereof is as under:

“5. xx xx xx.

It is pertinent to mention here that the petitioner at the time of filling up of application form was not having certificate of OSP category duly issued by the competent authority and has applied for the Sports Gradation Certificate after the scrutiny of documents. Therefore, the petitioner was rightly declared not eligible for the post of Heavy Vehicle Driver as he was not fulfilling the required eligibilities for the post in question on cut off date.

6. *That the petitioner has also contended that the Respondent-Commission illegally and arbitrarily selected the Respondent No.3 to 6 as they are under age on cut-off date for submission of online application forms. In this regard, it is pertinent to mention here that the respondent No.3 to 5 by mistake during filling the application forms mentioned the birth year as 1998 whereas during scrutiny of documents it came to the knowledge of Respondent-Commission that the birth year of Respondent No.3 to 5 has wrongly been mentioned as 1998 whereas according to their Aadhar Card and other supporting documents the birth year of candidates is 1988, 1989, 1988 not 1998.*

Therefore, the Respondent-Commission has rightly selected the candidates as the Respondent No.3 to 5 and they are not under age at the time of sending their recommendations to the concerned department. The copy of documents showing actual age of respondent No.3 to 5 is annexed as Annexure R-2/3.”

5. No further affidavit and/ or any replication has been filed controverting the aforesaid stand taken by the respondent No.3-Commission.

6. In the premise, since the above position remains uncontroverted and I am in agreement with the stand taken therein, writ petition lacks any merit and is accordingly, dismissed. In any case, trite it is to say that having remained unsuccessful, petitioner has challenged the selection process merely on the basis of certain vague allegations without there being any supportive material, and therefore, having unsuccessfully participated in the process, it is too belated to challenge the selection of those, who have been successful.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

November 15, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No