

232(5 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9663-2019 (O&M)
Date of decision: 08.12.2022

Umesh Joon ...Petitioner
VS
State of Haryana and others ...Respondents

CWP-10317-2019
Narinder ...Petitioner
VS
Haryana Public Service Commission and another ...Respondents

CWP-9658-2019
Sunil Kumar ...Petitioner
VS
State of Haryana and others ...Respondents

CWP-9821-2019
Manoj ...Petitioner
VS
Haryana Public Service Commission ...Respondents
CWP-10321-2019

Prikshit and others ...Petitioners
VS
Haryana Public Service Commission ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rahul Chauhan, Advocate for
Mr. Rajat Mor, Advocate,
Mr.G.S.Dhillon, Advocate for
Mr. Suvir Sidhu, Advocate,
Mr. Eklavya Gupta, Advocate,
Mr. S.K.Dhanda, Advocate,
Mr. Sandeep Thakan, Advocate,
For the petitioner(s).

Mr. R.K.S.Brar, Additional A.G., Haryana.

Mr. Kanwal Goyal, Advocate,
For the respondent-HPSC.

ARUN MONGA, J. (ORAL)

Vide this common order, bunch of above-mentioned petitions are being disposed of, since not only the facts but the issues raised therein are also similar. For brevity, recitals are being taken from CWP-9663-2019.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to issue the Sports Gradation Certificate in the field/game of Athletics, as per his entitlement i.e. Grade B in terms of the old instructions/policy dated 30.11.1993 (Annexure P-7) and to not make applicable the new instructions/policy dated 25.05.2018 (Annexure P-11).

3. In this bunch of petition, the grievance of the petitioners, all aspirants for the post of Assistant District Attorney, is that despite they being outstanding sports person, benefit has not been accorded to them *qua* their sports achievements in the different streams of sports in which they had participated.

4. The argument of the learned counsels for petitioners that the new sports policy was introduced to the detriment of the petitioner(s) is being noted only to be repelled. It is not the case that the petitioners have been meted out with hostile discrimination as the said new sports policy dated 25.05.2018 (Annexure P-11) was applied across board to all the candidates, who were seeking benefits under the sports category.

5. To the contrary, in fact, accepting the argument of learned counsels for the petitioners would rather amount to hostile discrimination *qua* those whose candidatures was rejected on the ground that they were found ineligible as per new sports policy, since the petitioners are seeking benefit of old sports policy, which was later superseded.

5.1 Furthermore, I am also not in agreement with learned counsels for petitioners that there was any change in the criteria and/or rules of the game once the whistle was blown and the match had begun, since new sports policy dated 25.05.2018 (Annexure P-11) was made applicable in supersession of the old policy by way of corrigendum dated 19.06.2018 (Annexure P-2), which was in continuation of the original advertisement dated 09.05.2017 (Annexure P-1). For ready reference, relevant of the corrigendum and policy are reproduced herein below:

“Note (iv) of the Corrigendum dated 19.06.2018 (Annexure P-2)

(iv) The eligibility of Eligible Sports Persons of Haryana (ESP) will be determined as per policy notified by the Government of Haryana vide notification No.04/40/2017-4SYA dated 25.05.2018. Which is available on the site of Chief Secretary to Govt. Haryana.”

“Clause 2 of the Notification/Policy dated 25.05.2018 (Annexure P-11)

2.The Sports Gradation Certificate type, eligibility for jobs under Sports quota and the authority competent to sign and issue the Sports Gradation Certificate will be as follows:

<i>Sports Gradation Certificate Type</i>	<i>Eligibility for jobs under Sports quota</i>	<i>Authority competent to sign and issue Sports Gradation Certificate</i>
<i>Grade-A</i>	<i>All posts</i>	<i>Director, Sports and District Sports & Youth Affairs Officer (of concerned district) jointly.</i>
<i>Grade-B</i>	<i>Posts other than Group-A</i>	
<i>Grade-C</i>	<i>Posts, other than Group-A and Group-B</i>	<i>District Sports & Youth Affairs Officer (of concerned district).</i>
<i>Grade-D</i>	<i>Only Group-D post</i>	

The sportsperson may apply (in duplicate) to the District Sports & Youth Affairs Officer of the district concerned. The format of the application is at Schedule-1.”

6. Pertinently, the corrigendum was very much to the knowledge of the petitioners and the same has not been challenged by any of them.

7. In any case to rely on the contents of the advertisement in abstract and not reading the corrigendum as a part thereof, would amount to rendering the corrigendum a nullity. Trite it is to say that the corrigendum of original document forms integral part thereof and has to be read as a part of the original advertisement and they have to be treated together and in totality. When interpreted in totality, it clearly emerges that corrigendum in no uncertain terms made it clear that new sports policy dated 25.05.2018 (Annexure P-11) shall be applicable *qua* the post in question which were advertised and for which the selection process was yet to be carried out. In any case, it was open to the candidates to challenge the corrigendum and/or the new sports policy. Not only the corrigendum was never challenged but the new sports policy has also not been assailed till date by any of the candidates.

8. There is no substance in the argument, as has been canvassed by one of the learned counsels, that the sports gradation certificate(s) issued to the candidates, as per the old policy, were produced by them at the time of verification of documents and they ought to have been told that same are not admissible and because of which, they could not get the gradation certificates under the New policy. It was for the petitioners to have read the corrigendum as well as the New policy which clearly envisages that documents have to be

Clause 2, *ibid*, which has already been reproduced above. Therefore, to turn around and blame the department for not making them aware flies in the face of the aforesaid policy/Instructions.

9. As an upshot of the discussion above, no grounds are made out to interfere. Dismissed.

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

11. Photocopy of this order be placed on the connected case files.

(ARUN MONGA)
JUDGE

December 08, 2022

Vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No