

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10211-2019

Date of Decision: 08.08.2022

NAGENDER SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : None for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

Mr. Govind Tanwar, Advocate for
Mr. Kanwal Goyal, Advocate
for respondent No.2.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of *certiorari* for quashing the order dated 28.03.2019 (Annexure P-8), whereby, the application moved by the petitioner for direct recruitment to 190 posts of Assistant District Attorney (Group-B) in Prosecution, Haryana, has been rejected.

While issuing notice of motion, my learned brother Rajbir Sehrawat, J. (then seized of the matter) passed the following order dated 15.04.2019 :-

“ Learned counsel for the petitioner submits that although the petitioner was declared as qualified by the respondent-Commission for viva-voce for the post of Assistant District Attorney in the category of Ex-servicemen-General of

Haryana, however, vide impugned letter/order, the respondent-Commission has cancelled the candidature of the petitioner, by giving two reasons. The respondent-Commission has written that the petitioner was not enrolled as an advocate with Bar Council as per the advertisement and, secondly, that the petitioner has applied in the category of Ex-servicemen-General of Haryana Category, whereas, the petitioner is, in fact, not an Ex-serviceman. It is further submitted by the counsel that the petitioner is duly enrolled with Bar Council of Delhi, vide enrolment certificate dated 17.02.2017. Still further, counsel has referred to the terms and conditions mentioned in the advertisement itself and submitted that; since the petitioner is dependent of ex-serviceman who was killed in action, therefore, he is entitled to be considered in the category of Ex-serviceman and not in the category of dependents of ESM. Hence, the order of rejection of the candidature by the respondent-Commission is without any basis.

Notice of motion for 20.05.2019.

In the meantime, it is ordered that the petitioner shall, provisionally, be permitted to participate in the viva-voce. However, the result of the petitioner shall not be declared except on specific order from this Court.”

Apropos, a return has been filed wherein, stand taken is that not only all the ESM posts have been filled up but even otherwise, the petitioner had wrongly stated that he is ESM but actually, he belongs to DESM category. Being so, his claim on the post under the ESM category can be considered only if there are no ESM candidates available.

Learned counsel apprises that in the present case, deserving ESM candidates against all 06 posts of ESM were very much available and have been so appointed, by giving them the benefit of their past defence service.

No replication and/or affidavit has been filed in any case to controvert the said stand. No grounds to interfere are made out. Dismissed.

August 08, 2022

gurpreet

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No