

213-6

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: November 15, 2022
CWP-10632-2018 (O&M)

Pardeep Kumar and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.S. Sahu, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned final result dated 03.03.2018 (Annexure P-3) and subsequent recommendation list (Annexure P-4) pertaining to selection of Heavy Vehicles Drivers in the Haryana Roadways. Further, issuance of a writ in the nature of mandamus directing respondent No.4 to hold a detailed inquiry into the driving licences and experience certificate of selected candidates and to prepare a revised final result.

2. First, succinct factual background, as pleaded in the petition. Respondent No.3-Commission issued an advertisement No.4/2017 dated 18.05.2017 (Annexure P-1) for various posts including Heavy Vehicle Driver. Petitioners applied for the said post in their respective categories. Result for written examination was declared and petitioners were called for driver proficiency test vide notice dated 10.11.2017. Vide notice dated 03.03.2018 (Annexure P-3), respondent No.3-Commission issued final result

(partial) and result of 25 posts was withheld to await the outcome of CWP-400-2018 and connected petitions. Further, respondent No.3-Commission declared detailed recommendation list (Annexure P-4) whereby fraudulent candidates were selected in the said list.

It is further pleaded that 5 candidates were selected in general category who have taken benefit of age relaxation in their own category and so cannot be considered against a general post in view of Government instructions dated 25.06.1997 and 03.12.2003 (Annexures P-5 and P-6, respectively). Three persons who were less than 20 years of age and one person having less than 21 years of age were selected on the said post despite not fulfilling the eligibility criteria i.e., candidates should have minimum 3 years experience for Heavy Transport Vehicle on the last date of advertisement i.e., 25.05.2017.

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-4 to 7 thereof:

“4. That the Haryana Staff Selection Commission has conducted the written examination for the said post and as per result for the written marks, candidates including the petitioners were called for scrutiny of documents. The petitioner No.1 namely Pardeep Kumar has appeared for the scrutiny of documents on 10.12.2017 and petitioner No.2 namely Sukhbir Singh has appeared for the scrutiny of documents on 25.12.2017 were found eligible. The copy of Attendance Sheet are annexed as Annexure R-3/1. Thereafter, the petitioner No.1 namely Pardeep Kumar has called for interview on 27.02.2018 and was found eligible. But petitioner No.2 namely Sukhbir not called for interview because he has obtained 92 marks and cut off in his category 98 marks for interview. So, petitioner No.2 namely Sukhbir Singh was not selected for the post in question.

5. That it is further submitted that on the basis of written examination, scrutiny of documents and interview the

petitioner No.1 namely Pardeep Kumar was selected in final result for (Remaining) 223 posts of Heavy Vehicle Drivers result dated 03.06.2019. The cop of result dated 03.06.2019 is annexed as Annexure R-3/2.

6. *That the petitioners have also contended that the Respondent-Commission illegally and arbitrarily selected the Respondent No.5 to 8 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.5 to 7 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.5 & 7 has wrongly been mentioned as 1998 whereas according to their Aadhar Card and other supporting documents the birth year of candidates is 1988not 1998. Moreover, the Birth year of respondent No.6 is 1989 which he has wrongly mentioned as 1998 in application form.*

Further, with respect to respondent No.8 it is submitted here that his year of birth is 1995 which shows that the petitioner was not under age on the closing of submission of application form. Therefore, the Respondent-Commission has rightly selected the Respondent No.5 to 8 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.5 to 8 is annexed as Annexure R-3/3.

7. *That the other contention of the petition is that the respondent-Commission has selected the Respondent No.9, 10, 11, 12, 13 & 14 arbitrarily and illegally as they are over-aged. In this regard, it is submitted that Respondent No.10, 11, 12, 13 & 14 belong to BCB, BCB, SC, BCB & BCA categories respectively and have been selected under General category on the basis of marks alone inadvertently as the cut off for the General Category was 129, whereas the respondent No.9 to 14 secured 138, 133, 129, 129, 138 marks respectively which is more or equal to cut-off marks of General category i.e. 129 marks. All these candidates belong to various reserved categories. Now, after the filing of writ petition the error has come to the notice of Respondent-Commission that Respondent No.9 to 14 cannot be considered against General Category, as they are overage and can be considered against their respective category only. In this regard, corrective measures shall be undertaken within the period of 2 (two) months after checking all the data.”*

5. Concededly petitioner No.1 was selected for the post of question and his name was recommended accordingly. Therefore, learned counsel for the petitioners seeks permission to withdraw the petition *qua* petitioner No.1.

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

7. In the premise, since the above position remains uncontroverted and I am in agreement with the stand taken therein, writ petitions lack any merit and is accordingly, dismissed except for petitioner No.1, who is stated to have been selected during pendency of the writ proceedings. *Qua* petitioner No.1, writ petition stands dismissed as withdrawn, as prayed for. In any case, trite it is to say that having remained unsuccessful, petitioners have 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