

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12949-2017
Date of decision: 14.11.2022

Anil Singla

...Petitioner

VS

State of Harana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.Deepak Girotra, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus commanding respondent No.2 to consider the petitioner in the category of Physically handicapped instead of General Category for the post of PGT Sociology.

2. Succinct facts first, as pleaded in the petition. Petitioner applied for the post of PGT Sociology in view of the advertisement No.04/2015 published on 28.06.2015. Petitioner is a physically handicapped person and applied for the disability certificate on various occasions but the concerned authority i.e. Civil Surgeon, Sirsa, delayed the issuance of the said certificate on the pretext that the members of the Medical Board are not available. Thus, the petitioner could not get the disability certificate at the time of submission of the application form, despite being 60% physically impaired. Though petitioner was eligible, he was forced to apply under General Category. After getting the certificate, petitioner submitted an application dated 24.06.2016 and stated therein that he could not apply in the category of physically handicapped due to non-availability of the certificate and

requested to be considered in the said category. Having successfully participated in the selection process, he was interviewed, albeit, in general category, inspite of submitting his disability certificate well before the date of interview. Delay in getting the certificate was due to the non-constitution of the Medical Board by the competent authority which cannot be attributed to the petitioner. Hence, the present petition.

3. While issuing notice of motion vide order dated 01.08.2017, Amol Rattan Singh, J. (as he then was in this Court and was seisin of the matter) passed following order:

“Pursuant to yesterdays’ order, learned counsel for the petitioner has produced in Court today a photocopy of a certificate issued by the Medical Authority, i.e. the Medical Board consisting of the Civil Surgeon, Sirsa, Medical Superintendent, Civil Hospital, Sirsa, and an Orthopedician from the General Hospital, Sirsa, reiterating what is stated in the earlier medical certificate dated 11.05.2016, Annexure P-6, that the petitioner has a 60% disability in the form of deformity of his left ankle. Though the part of the body in relation to which there is a 60% disability is not mentioned in the certificate, it would obviously be the left leg. The copy of the certificate produced today is dated 17.05.2017.

Notice of motion.

On the asking of the Court, Mr. R.K.Doon, learned AAG, Haryana, accepts notice.

Adjourned to 09.08.2017.

Learned State counsel would determine the position of the selection process.”

4. Apropos, on 10.08.2017, following order was passed:-

“Pursuant to the order passed yesterday, Mr. Hitesh Pandit, Addl. A.G., Haryana, on instructions submits that though presently only two persons in the handicapped category (General) come within the zone of selection, however, another candidate who had applied under the same category and whose candidature was rejected, has filed CWP No. 3263 of 2017, in which notice of motion has been issued now returnable on 29.09.2017.

Adjourned to 29.09.2017.

In the meanwhile, reply be filed.

To be heard along with CWP No. 3263 of 2017.”

5. In the premise, on a Court query, learned counsel for the petitioner submits that CWP No.3263 of 2017 was allowed by a Single Bench of this Court

and intra Court appeal filed against the same has also been dismissed. Benefit of the judgment has already been accorded to the similarly situated candidate by considering his application in the handicapped category (General). While allowing the aforesaid writ petition, Amol Rattan Singh, J., the learned Single Judge who authored the judgment observed as below:

“Learned counsel is correct in saying that the eligibility conditions as prescribed in the advertisement Annexure P-1, dated 28.06.2015, would not change simply by extension of the last date of submission of application.

His contention, 'more fully', is that as in the said advertisement, in Clause 1 thereof, it is stipulated that eligibility conditions would be determined as per the last date fixed for applying by way of online applications, "i.e. 21st September 2015", that reference date, to see eligibility conditions, cannot be changed.

Whereas if the phrase "with regard to last date fixed to apply online applications also called as closing date", had not been given in Annexure P-1, that contention may have been considered by this Court; however, it being stipulated so, that the reference date would be the last date for receiving online applications, specifying it to be 21.09.2015 at that time, and the last date itself having been extended vide the notice Annexure P-2 up to 12.10.2015, the said argument also cannot be accepted, in my opinion.

12. Hence, in view of what has been stated hereinabove, as also as per the ratio of the Division Bench judgment in CWP no.9533 of 2001, "Ankita Beniwal vs. Haryana Public Service Commission", these petitions are allowed and respondent Commission is directed to interview the petitioners if they otherwise come within the zone of selection as per the marks obtained by the last candidate, in each category in which the petitioners have applied, provided of course that the result in the case of each petitioner, in the examination concerned, was disclosed by the respondent University prior to the cut-off date, i.e. 12.10.2015 as per the corrigendum Annexure P-2.”

6. Having perused the pleadings of the present case vis-à-vis the case of the petitioners in CWP No.27021-2016, I see no reason as to why the petitioner be also not accorded similar treatment on parity and be not considered in the Handicapped Category (General). This is subject of course to him being otherwise eligible and the post being vacant as on today in the category petitioner had applied.

7. In the premise, writ petition is disposed of with a direction to the respondents that in case the post is still available in the category petitioner had

applied is still available and he shall also be interviewed by Haryana Staff Selection Commission. This is subject of course, to him being otherwise eligible and in case he is found meritorious, he be accorded the benefit, in accordance with law.

8. Needful exercise be carried out within a period of two months from today.

9. Since the matter has remained pending in this Court for no fault of the petitioner, consequent to which he has become overage, though, fully eligible at the time of original advertisement dated 28.06.2015 (Annexure P-1), respondents shall accord the benefit to the petitioner and will not reject his case on the ground of being overage.

(ARUN MONGA)
JUDGE

November 14, 2022
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No