

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.27562 OF 2015 (O&M)

Date of Decision:25.08.2022

Satish Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vishal Nehra, Advocate
for the petitioner.

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

ARUN MONGA, J. (ORAL)

Petitioners herein, *inter-alia*, seek issuance of a writ in the nature of Certiorari for quashing qua the petitioner, the list of ineligible applicants (Annexure P-6), whereby candidature of the petitioner has been rejected for the post of Driver in Haryana Roadways at Gurgaon under General Category advertised vide Advertisement No.1 of 2015.

2. Succinct facts first. Petitioner completed training for driving a Heavy Passenger Vehicle from the respondent-department at Haryana Roadways, Rohtak for a period of 30 days i.e. from 01.09.1997 to 30.09.1997 to the satisfaction of the concerned officials. After completing the training the petitioner applied for licence with the Licensing Authority and the same was got issued

after completing all formalities on 26.11.1997. Petitioner kept on renewing his driving licence time and again from the Licensing Authority, Jhajjar at Bahadurgarh-respondent No.4. He got his renewed driving licence on 16.01.2015, wherein the driving licence number and date are categorically mentioned in the front side of the driving licence and on the rear side also mentioned as Old No.443/J/97, Type : Renewed, Original issue date: 26.11.1997, copy of which is Annexure P-5. On 17.09.2015, the respondent department-Haryana Roadways invited applications for the post of Driver vide Advertisement No.1 of 2015 (Annexure P-1) and being eligible the petitioner applied for the same. However, the respondent No.3 has issued a list of ineligible applicants (Annexure P-6), impugned herein, wherein the petitioner's name has been placed at Sr. No.117 vide Form No.117 and the reason mentioned as "HTPV date not mentioned in driving licence". Hence, the present petition.

3. What thus emerges for adjudication before this Court is a very short controversy i.e. whether or not the petitioner has valid driving licence of driving Heavy Transport Passenger Vehicle 3 years prior to 17.09.2015 (being the cut-off date)? The reason of rejection, impugned herein, in the list of ineligible applications (Annexure P-6), where the petitioner is shown at Sr. No.117 is "HTPV date not mentioned in driving licence". Before advertizing further, it is pertinent to note that prior to applying for the post in question the petitioner had earlier also applied for the post of driver with the respondent No.2-Haryana Roadways in the year 2013 and it

was only after due verification of his driving licence that the department had offered him appointment order (Annexure P-8) w.e.f. 26.09.2013, though on contract, but he continued to work and he was thus already in service at the time of applying for regular appointment vide advertisement (Annexure P-1). Ordinarily, it is rather intriguing that while appointing him on contract, the department found his licence to be in order, not to be overlooked that nature of job is the same i.e. driving a Heavy Transport Passenger Vehicle and the fate of the passengers is in the hand of the driver. Whether he is on contract or on regular employment is thus irrelevant. When the petitioner applied for regular appointment the department was conscious that he was already driving the passenger vehicle and there was no complaint regarding his competency to drive the vehicle and it was perhaps in this background that the only objection at the time of rejection is with regard to some discrepancy and/or absence of date in the driving licence. In this regard, my attention has been drawn to driving licence annexed at Annexure P-4, which was issued on 26.11.1997, way prior to the advertisement published in the year 2015. It clearly states in as many words that the same is valid for Heavy Passenger Vehicles (H.P.V.) and Heavy Goods Vehicle (H.G.V.) and was issued by the Licensing Authority, Jhajjar. The said licence (Annexure P-4) also bears an endorsement that it was later extended upto 15.01.2000. Subsequently, the same very licence dated 26.11.1997 was revalidated upto 16.01.2018 vide

licence (Annexure P-5) i.e. way beyond the cut-off date 17.09.2015, as per the advertisement.

4. The argument of learned State counsel, as canvassed, is that licence (Annexure P-5) though mentions that it is for 'H.G.V. only' and 'H.P.V.' but can only be used against H.G.V. and therefore the petitioner is not a licence holder of H.P.V.

5. *Per contra*, learned counsel for the petitioner argues that the original licence was issued on 26.11.1997 and the licence (Annexure P-5) is merely revalidation of the same from time to time. Further the original licence in as many words mentions that it is issued for driving H.P.V. and H.G.V. Being so, there has been a clear error on the part of the competent authority to reject the candidature of the petitioner on both counts i.e. i) there was no date on the licence, and ii) he did not have the licence for Heavy Passenger Vehicle (H.P.V)/Heavy Transport Passenger Vehicle. Learned counsel for the petitioner further points out that pursuant to order dated 06.01.2016, the petitioner was allowed to participate in the selection process but it was directed that his result would not be declared without the leave of the Court.

6. In my opinion, the writ petition has to be allowed. Ordered accordingly. The respondents are directed to open the seal wherein result of the petitioner is kept and to consider the candidature of the petitioner of course subject to being meritorious enough as per the result. In case his aggregate marks are more than the last selected candidate, his case for appointment be processed in

accordance with law subject to availability of vacancy as on today, failing which, he shall be considered as and when the first vacancy falls vacant in future. It is clarified that for the period he remained out of service, he would not be allowed any monetary benefits.

7. Pending civil miscellaneous application, if any, also stands disposed of.

August 25, 2022
ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No