

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

CWP-23978-2018 (O&M)

Date of decision: March 22, 2022

Saroj Kumari

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vivek Khatri, 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 directing respondent No.2 to permit/ allow the petitioner in the process of scrutiny of documents before interview for the post of Supervisor (Female) against Advertisement No.7/2016, Category No.17, and further allow her to participate in the interview.

2. Learned counsel for the petitioner submits that advertisement was issued by respondent No.2 for filling up various posts in the various Department of the State of Haryana including 137 posts of Supervisor (Female) in the office of Women and Child Development. Petitioner applied for the post of Supervisor (Female) under ESM-BC-A category. He submits that petitioner cleared the examination for the post in question as her roll number was found mentioned in the result published by respondent No.2. Petitioner had all the essential documents except a formal certificate of DESM. Therefore, she applied for the same before respondent No.3. On 12.09.2018, petitioner approached respondent No.2 requesting that she be allowed participation in the process of scrutiny of

documents for the post in question. However, candidature of the petitioner was not entertained by respondent No.2 on the ground that she is not having valid dependent Ex-Serviceman Certificate. Petitioner also moved a representation before respondent No.2.

3. On the other hand, learned State counsel appears and opposes the prayer of the petitioner.

4. I have heard learned counsel for the parties and perused the record.

5. The short controversy involved herein is that the petitioner before this Court is aggrieved *qua* rejection of her candidature for the post of Supervisor (Female) in the category of dependent of Ex-Serviceman despite having got the valid eligibility certificate at the time of her interview.

6. Without adverting much on the merits what is relevant herein for the purpose of adjudication of the petition is the eligibility condition clause *qua* DESM contained in the advertisement, which reads thus:-

“For Disabled ESM/ Dependent of Killed/ Disabled in action reservation will be as per Haryana Govt. instructions contained in letter No.945-GS-II 72/6451, dated the 6th March, 1972.

The reservation for ESM will be utilized in the order given below:-

- i) Disabled ex-servicemen with disability between 20% to 50%,*
- ii) Up to two dependents of Service personnel killed/ disabled beyond 50%*
- iii) Other ex-servicemen.*

Note:-1. Disabled ex-servicemen will mean ex-servicemen who, while serving in the Armed Forces of the Union were disabled in operations against the enemy or in disturbed areas.

Note:-2. The dependants will include besides wife/ widow, dependent sons/ daughters.

The dependents of ESM who fulfill all conditions of qualifications, age etc. prescribed for posts will be considered on merit for the posts reserved for ESM to the extent of non-availability of suitable ESM candidates.

ESM/DESM candidates of Haryana claiming benefit must have valid eligibility certificate on last date of submission of online application form and will have to produce the valid Eligibility Certificate from the concerned Zila Sainik Board at the

time of interview. Mere dependent certificate will not be entertained. ESM candidates should also produce attested photo copy of Identity Card issued by concerned Zila Sainik Board & Discharge Book at the time of interview.”

7. A perusal of the above leaves no manner of doubt that a candidate claiming the benefit of reservation as dependent of Ex-Serviceman must have (a) valid eligibility certificate on last date of submission of online application form, and (b) shall have to produce the said eligibility certificate at the time of interview.

8. Facts in the instant case are not controverted to the extent that the petitioner had applied for the post in question vide her online Scrutiny form (Annexure R-2/1) wherein she had ticked on the column of category stating that she was seeking reservation as ESM BCA, which was duly scrutinized and vide said scrutiny form (Annexure R-2/1), her candidature was rejected on the ground that she had not appended the DESM eligibility certificate along with application form. On a Court query, learned counsel for the petitioner conceded that indeed the petitioner had not appended the eligibility certificate along with application form.

9. Having heard the rival contentions, I am of the opinion that the advertisement clause itself unequivocally states that a candidate must have a valid eligibility certificate on the date of submission of online application form and same was required to be produced at the time of interview. It is not controverted that the petitioner did not have a valid certificate at the time of interview and neither it is the case of the respondents that the certificate is not a genuine one as the same has been issued validly by the Zila Sainik Board as per the requirement contained in the advertisement. It was, therefore, highly improper on the part of the respondents to reject the candidature of the

petitioner merely on the basis of the online scrutiny form stating that she had not appended the certificate along with the same as there was no such requirement on the part of the petitioner in terms of the advertisement itself.

10. Accordingly, the rejection of the candidature of the petitioner is not in accordance with the conditions contained in the advertisement and the same is set aside and the respondents are directed to restore the candidature of the petitioner and proceed with the process of her selection in accordance with merits, if otherwise found meritorious as per the marks obtained by her in the written examination along with Viva-Voce. Needful be done within a period of 30 days from today.

11. Petition is disposed of, accordingly.

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

(ARUN MONGA)
JUDGE

March 22, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No