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

**CWP NO. 28885 OF 2017 (O&M)
DATE OF DECISION: 27.04.2022**

Mahender and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Arjun Atri, Advocate,
for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

CM-12036-CWP-2018

For the reasons stated in the application, same is allowed and documents contained at Annexures P-5 to P-7 (colly) and P-7 are taken on record, subject to all just exceptions.

MAIN CASE (O&M)

Petitioners herein, *inter alia*, seek issuance of a writ in the nature of mandamus to consider their claim for appointment as Drivers (Heavy Transport Vehicles) from the date candidates lower in merit to them have been appointed, along with all consequential benefits.

2. I have heard rival contentions of learned counsel for the petitioner and those of learned State counsel and have also perused the record appended with the writ petition.

3. Annexures P-5 to P-7 are driving licenses issued to the petitioners from time to time which show that the same were renewed by the Licensing Authority, Sonipat followed by Licensing Authority at

Mewat, both in State of Haryana. I am unable to agree to the reasons of rejection of candidature of the petitioner on the ostensible ground that since first license was issued from Faridabad and verification of the same could not take place as the records of the Licensing Authority, Faridabad, for the relevant period, could not be found and the same were burnt due to sudden fire.

4. Firstly, burning of the record is not attributable to the petitioners and they ought not to be put to adverse consequences for the same. The fact remains that both the licenses bear the signatures of licensing authority and it was open to the department to get the signatures of the licensing authority verified rather than taking the moon shine plea of the records having been burnt.

5. Be that as it may, even otherwise on its own accord, the department has not disputed the renewal of the licenses got carried out by the petitioner from time to time as contained at Annexure P-6 (colly). To suggest as contended, that the word “Renewal” does not include the word “New” goes against the common sense as well as meaning of renewal which as per dictionary also presupposes the existence of an earlier license which is renewed. Assuming the defence of the department were to be believed that owing to the fire in the office of licensing authority verification of the very first license issued to the petitioners could not be carried out due to record being burnt, it was indeed open to the respondents to verify the renewal of license of the petitioners and if the same are found to be genuine, their candidature ought to have been considered in accordance with advertisement No.001/2012.

6. Learned counsel for the petitioner relies on an order passed in CWP No. 20283 of 2015 titled “Sarjeet Singh v. State of Haryana and

others” by a Single Bench of this Court. Speaking for the Court, my learned brother G. S. Sandhwalia, J. held as under :

“ Keeping in view the above, this Court is of the opinion that once the licence, as such, had been renewed by the competent authority at Rewari in the year 2001, it would have been on the basis of following the requisite procedure and getting all the information from the issuing authority at Faridabad. Only on account of the fact that the record was burnt at Faridabad, for which an FIR had also been lodged, the petitioner cannot be put to a disadvantage and be denied public employment, as undisputedly, the endorsement of 'Heavy Transport Vehicles' has also been entered in the Driving Licence in the year 2004 at Rewari. The fact of not tracing the NOC at Rewari also, cannot prejudice the petitioner, as it is for the State to preserve its records. Accordingly, keeping in view these cumulative facts that there was regular renewals at Rewari, this Court is of the opinion that the denial of appointment is not justified.

The argument raised by the State Counsel that the SDO was the competent authority to issue the Driving Licence, would also fall into insignificance, keeping in view the fact that there were renewals by the RTA, Rewari on various occasions including the endorsement of 'Heavy Transport Vehicle' in the year 2004 and therefore, it is estopped from taking the plea that the license was not issued by the competent authority.

Accordingly, in view of the above, the present writ petition is allowed.”

A perusal of the above shows that case of the petitioner is covered by the judgment, *ibid*. The word ‘renewed’ presupposes that there is something already existing and then only it can be renewed. It is safe to assume that when the pre-existing license is found genuine and valid then only its renewal is made.

7. However, there seems to be some mismatch of the recitals of names vis-à-vis father’s name qua petitioner No.1 as the same is different from what is stated in memo of parties herein than the one on his driving license contained at Annexure P-6.

8. Being so, the writ petition is disposed of with the direction to the respondents that subject to verification of the renewed licenses of the

petitioners their candidature for the post of Driver (Heavy Transport Vehicle) be considered in accordance with law and if found meritorious, they shall be accorded the benefit thereof.

9. It is made clear that in case the appointment letters are issued to the petitioners, they shall be given seniority below their counter parts, who were offered appointment in the relevant selection process. In case there is no vacancy available but otherwise the petitioners are found fit for appointment according to merit, the respondents shall accommodate the petitioners against the future available vacancies as and when the same arise.

APRIL 27, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No