

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

CWP-28316-2018 (O&M)

Date of decision: April 20, 2022

Anand

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Chandra Shekhar Singh, 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 Certiorari quashing impugned order dated 11.05.2018 (Annexure P-11) passed by respondent No.4, whereby claim of the petitioner, to be considered in BCA category as well as in general category. He was held ineligible for the post of heavy Vehicle Driver (Category No.1, BCA category) as per the Advertisement No.4/2017 dated 18.05.2017 (Annexure P-3).

2. In the return filed to the writ petition, following stand has been taken in Para-6 thereof, which reads as under:

“6. That the main grievance of the petitioner in the present writ petition is to consider the claim of the petitioner in BCA category as well as in general category if found eligible and to take the interview of the petitioner.

In this regard it is submitted that the petitioner has appeared in the written exam and has appeared for scrutiny of documents as mentioned in above para no.5 of the present reply and he has been considered under BCA category in which he has applied. Further, it is submitted that the petitioner has produced experience certificate dated 05.12.2016 (Annexure P-4 Colly) with the application form and at the time of scrutiny of documents. Cut off date for the post in question was 24.06.2017.

The experience certificate produced by the petitioner is from 01.04.2014 to till date (i.e. 05.12.2016 date of issue of experience certificate) issued by the Mini Canter Union, Near Shankar Dharam Kanta, Main Rohtak Road, Bahadurgarh on dated 05.12.2016. Accordingly, experience claimed by the petitioner is less than three years and he does not fulfill essential condition regarding three years experience of driving heavy transport vehicle. Due to which the petitioner is ‘not eligible’ for the post in question. It is clearly mentioned in the Advt. No.4/2017 that:

“E.Q.

ii. Should hold driving licence of heavy transport vehicle with three years experience of driving heavy transport vehicle.”

Therefore, as the petitioner has failed to prove that he fulfilled the required qualifications as per terms and conditions of the advertisement and therefore he has rightly been declared ‘not eligible’ for the post in question.

Further, it is submitted that as the petitioner was found ‘not eligible in the scrutiny of documents, therefore, his name did not find mentioned in the notice for interview for the post in question. It is pertinent to mention here that the terms and conditions of the advertisement is magna carta of the selection procedure and the Respondent Commission being a recruitment agency cannot go beyond the terms and conditions of the advertisement which are prescribed by the concerned department. Also, as the petitioner was found ‘not eligible’ in his own category on account of not fulfilling requisite essential qualifications, which are same for every category, he cannot be considered even in general category even if he clears the merit.”

3. Even otherwise, a work certificate has been appended herein with the petition by petitioner, on his own volition, as Annexure P-4 (Colly). Perusal of the same reflects that he has been working as Heavy Vehicle Driver only w.e.f. 01.04.2014. The certificate is dated 05.12.2016. By his own reckoning, he did not thus have the requisite minimum experience of 3 years, which was the eligibility as per the advertisement. Therefore, his candidature has rightly been rejected.

4. As regards the affidavit dated 22.02.2018 filed by him contained at Annexure P-5, subsequent to his rejection, the same is of no consequence as

what has to be seen is the experience certificate and not the affidavit.
Affidavit cannot improve the date of experience certificate.

5. No grounds to interfere. Dismissed.
6. Needless to say that dismissal of the writ petition shall not come in the way of the petitioner to compete for the future vacancies, as and when advertised, if found eligible.

(ARUN MONGA)
JUDGE

April 20, 2022
mahavir

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