

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

CWP-5789-2018 (O&M)

Date of decision: May 25, 2022

Sanjay Kumar

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Kanwal Goyal, Advocate and
Mr. Govind Tanwar, Advocate
For the petitioner.

Mr. R.K.S.Brar, Additional A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to consider the petitioner eligible under DESM Category for the post of Heavy Vehicle Driver, as published by respondents vide advertisement No.4 of 2017 dated 18.05.2017 (Annexure P-1) under category No.1.

2. Succinct facts first. Pursuant to an advertisement No. 4/2017 issued by Haryana Staff Selection Commission for various posts, petitioner applied for the post of Heavy Vehicle Driver. He cleared the written examination. Subsequently, he appeared for scrutiny of documents-cum-driving proficiency test, which too he successfully cleared. However, in the next round of selection i.e. interview process, he was not called. It turned out later that his candidature was rejected for not submitting the DESM Certificate along with the application. Hence, the instant petition.

3. I have heard learned counsel for the parties and gone through the case file.

4. Learned counsel for the petitioner places reliance on the advertisement, relevant whereof is reproduced hereinbelow:-

“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 and Discharge Book at the time of interview.”*

(emphasis supplied)

5. Perusal of the above leaves no room for any ambiguity that candidates were required to prove their certified credentials at the time of interview. The petitioner deposes that as on the date of interview he possessed valid DESM certificate. Even at the time of scrutiny of documents he had it with him. And yet, instead of being considered for interview, he was non-suited on the ground that at the relevant time he did not produce the Dependent of Ex Servicemen (DESM) certificate.

6. I do not find any reason as to why petitioner be not accorded the benefit of what has been stated clearly in the advertisement itself. Had he been accorded opportunity to bring the DESM certificate at any stage, prior or later, alternatively, if he were invited for interview based on his written examination performance, he would have shown the same.

7. In the premise, rejection of the candidature of the petitioner is held to be invalid. Respondents are directed to consider the candidature of the petitioner in accordance with law for the further round of interview etc. and his result be declared. Subject of course to the availability of vacancy as on today, petitioner

be given benefit thereof. If he is found meritorious, he shall be offered appointment. In case, no vacancy is available but he is found to be in selection zone, he shall be adjusted against the next future vacancy as and when it becomes available. Petitioner shall be entitled to seniority as per his result with effect from same day as his counter parts were selected pursuant to same advertisement, but no monetary benefits on the principal of “no work no pay”.

8. Writ petition is disposed of accordingly.

(ARUN MONGA)
JUDGE

May 25, 2022
Vandana

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