

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

CWP-24738-2019 (O&M)

Date of Decision: 21.12.2022

Vikram Singla

.....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Akshay Bhan, Sr. Advocate
with Mr. Shaurya Khanna, Advocate
for the petitioner.

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

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondent No.1 to send record pertaining to the petitioner i.e. the ACRs for the relevant period (2014-2019), which are lying in the office of respondent No.1 to the respondent No.2 and further for direction to respondent No.2 to consider the same while taking a decision on the nomination process.

2. Background of the case is that the petitioner joined on the post of Naib Tehsildar on 12.08.2008. In the year 2014, total 42 candidates were promoted on the post of Tehsildar and the petitioner secured second position in the merit list. State issued an advertisement (Annexure P-1) in the year 2016 for the post of HCS (Executive Branch) and petitioner was eligible to apply for the same. The above said advertisement was issued under Rule 9 of

CWP-24738-2019 (O&M)

Haryana Civil Services (Executive Branch) Rule, 2008. Petitioner also applied for the same. Criteria for the nomination to the post of HCS (Executive Branch) was kept as 8 years service as a government servant. Petitioner completed his 8 years of services in the year 2016. The State announced the interview/viva voce vide letter dated 03.09.2019 and the interview was to be taken on 04.09.2019 at 9.00 AM i.e., very next day. There were two lists of candidates who were called for interview, one by the Financial Commissioner Revenue (FCR) to the Government of Haryana, which was prepared after the internal examination of the documents and the merit, in which the name of the petitioner in the list was shown at Sr.No.27 and in another list of even date i.e. 03.09.2019 which was issued by the respondent No.2-HPSC, in which the name of the petitioner was shown at Sr.No.51 instead of Sr. No.27. On enquiry, the petitioner came to know that the ACRs of the petitioner were not forwarded by the FCR (respondent No.1) to the HPSC (respondent No.2).

3. Resultantly, the grievance of the petitioner is confined only to deliberate inaction of the respondents in not sending his service record to HPSC despite the fact that there is neither any legal hindrance nor even otherwise any plausible reason of withholding the same. Notwithstanding, the petitioner has already been interviewed but his service record was not sent to HPSC.

4. Learned Senior counsel for the petitioner relies on order/judgment dated 23.09.2022 rendered by me in the case of similarly situated counterpart of the petitioner in CWP No.26093 of 2019, titled '*Manish Kumar Yadav vs. State of Haryana and others*'. For ready reference, the observations made therein are as under:-

"Petition herein, inter alia, is for issuance of a writ in the nature of Certiorari for setting aside order/proceedings dated 30.08.2019 (Annexure P-16) whereby petitioner has been stated to be ineligible on account of non-availability of 6 ACRs of Very Good or above category, alleging same to be incorrect and in contravention to the guidelines dated 09.07.2019 (Annexure P-10). Further direction has been sought to send ACRs of the petitioner for the period from 2017-2018 and 2018-2019 to respondent No.3 for considering the same, which are lying in the office of respondent No.2.

2. It transpires that during pendency of the writ petition, vide an interim order dated 16.09.2019 passed by Amit Rawal, J., (as he then was in this Court), respondents were directed in the following terms:

"Inter alia contends that ACRs for the year 2017-18 & 2018-19, which are required to be sent to respondent No.3, being essential and necessary for consideration for the post of Haryana Civil Services (Executive Branch) from Register A-1, are lying in the office of respondent No.2. There cannot be any fault on behalf of the petitioner.

Relies upon notice of motion order dated 04.09.2019 passed in CWP No.24538 of 2019 (Annexure P-19), which is pending consideration for 30.09.2019.

Notice of motion for 30.09.2019.

In the meantime, respondent No.2 is directed to send the complete service record of petitioner including aforesaid ACRs after application of mind, to respondent No.3. A copy of this order be given to learned counsel for petitioner under the signatures of Court Secretary of this Court."

3. Apropos, the ACRs of the petitioners were sent to respondent No.3-HPSC. As regards eligibility of the petitioner, learned counsel relies on a Division Bench judgment/order dated 13.11.2019 rendered in CWP-8502- 2017 titled Joginder Sharma and others versus State of Haryana and others. In view of the aforesaid, nothing survives for adjudication before this Court except to determine the eligibility of the petitioner, in case aforesaid judgment is applicable to his case, as canvassed by learned counsel for the petitioner.

4. In the premise, writ petition is disposed of with the expectation that respondents shall proceed further in accordance with law and pass appropriate orders to consider the candidature of the petitioner in case he is found eligible.

5. In the parting, my attention has been drawn by learned counsel for the petitioner to Paras-5 & 6 of the written statement dated 03.12.2019 filed on behalf of respondents No.1 to 3, wherein it is

admitted by the State that the petitioner is in deed eligible. Be that as it may, respondents are to proceed accordingly. Since petition has been pending in this Court for almost 4 years, it is expected of the respondents to proceed as expeditiously as possible, but not later than 6 months from today."

- 5. Having perused my earlier order, I am of the view that the petitioner is since similarly situated and therefore, I see no reason as to why he be also not given the benefit on the same terms.
- 6. Petition is disposed of in the same terms, as aforesaid. Necessary exercise be carried out within a period of 2 months.
- 7. Pending civil miscellaneous, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 21, 2022
ashish

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