

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

CWP-7699-2018 (O&M)

Date of decision: November 15, 2022

Naveen Kumar and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. M.S. Lamba, Advocate for
Mr. Ravinder Singh, Dhull, Advocate the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

Mr. Abhimanyu Singh, Advocate,
Mr. Shiv Kumar Rana, Advocate for respondent No.7.

Mr. Pankaj Mehta, Advocate for respondent No.5.

Mr. Harshvardhan Ranga, Advocate for respondent No.8.

Mr. Rishab Garg, Advocate for
Mr. Ayush Gupta, Advocate for respondent No.12.

Mr. Ram Kumar Saini, Advocate for respondent No.13.

Mr. Bhupinder Singh Bairagi, Advocate for respondent No.14.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned final result dated 03.03.2018 (Annexure P-3) and subsequent recommendation list (Annexure P-4) pertaining to selection of Heavy Vehicles Drivers in the Haryana Roadways; Further issuance of writ in the nature of Mandamus directing respondent No.4 to hold a detailed inquiry into the driving licences and experience certificates of the selected candidates and to prepare a revised final result.

2. First, succinct factual background, as pleaded in the petition. Respondent No.3-Commission issued an advertisement No.4/2017 dated 18.05.2017 (Annexure P-1) for various posts including Heavy Vehicle Driver. Petitioners applied for the said posts in their respective categories. Result was declared and petitioners were called for driver proficiency test vide notice dated 10.11.2017. They also appeared for the interview. Vide notice dated 03.03.2018 (Annexure P-3), respondent No.3-Commission issued final result (partial) and the result of 25 posts was withheld to await the outcome of CWP-400-2018 and connected petitions. Respondent No.3-Commission further declared detailed recommendation list (Annexure P-4) whereby fraudulent candidates were selected for the said post.

It is further pleaded that 5 candidates were selected in general category who have taken the benefit of age relaxation, and so cannot be considered against a general post in view of Government instructions dated 25.06.1997 and 03.12.2003 (Annexures P-5 and P-6, respectively). Eligibility condition for selection was that candidates should have minimum 3 years experience for Heavy Transport Vehicle on the last date of Advertisement i.e., 25.05.2017. But three persons who were less than 20 years of age and one person was less than 21-year of age, were selected on the said post despite not fulfilling the eligibility criteria.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. In the return dated 21.01.2020 filed on behalf of respondent No.3, following stand has been taken in Paras-6 to 8 thereof:

“6. *That the petitioner No.1 namely Sh. Naveen Kumar has obtained total 127 marks (118 marks in written examination*

+ 9 marks in interview), Petitioner No.2 namely Deepak has obtained total 121 marks (108 marks in written examination + 13 marks in interview), Petitioner No.3 namely Anil has obtained total 119 marks (110 marks in written examination + 9 marks in interview), Petitioner No.4 namely Kunj Bihari has obtained total 128 marks (116 marks in written examination + 12 marks in interview) & Petitioner No.5 namely Mahipal has obtained total 113 marks (104 marks in written examination + 9 marks in interview) and the final cut off for General Category was 129 marks. So, due to lesser marks of the petitioners, they were not selected for the post in question.

The respondent-Commission declared the final result of remaining 223 posts of Heavy Vehicles Drivers in which the petitioner No.4 got selected as the cut off of General Category which was 129 marks was lowered to 128 marks and petitioner No.4 has also secured 128 marks. The petitioner No.4 has already been recommended to the concerned department. Copy of relevant page of recommendation list bearing credentials of petitioner No.4 is placed as Annexure R-3/1.

7. That the petitioners have also contended that the Respondent-Commission illegally and arbitrarily selected the Respondent No.5 to 8 as they are under age on cut off date for submission of online application forms. In this regard, it is pertinent to mention here that the respondent No.5 to 7 by mistake during filling the application forms mentioned the birth year as 1998 whereas during scrutiny of documents it came to the knowledge of Respondent-Commission that the birth year of Respondent No.5 & 7 has wrongly been mentioned as 1998 whereas according to their Aadhar Card and other supporting documents the birth year of candidates is 1988 not 1998. Moreover, the Birth year of respondent No.6 is 1989 which he has wrongly mentioned as 1998 in application form.

Further, with respect to respondent No.8 it is submitted here that his year of birth is 1995 which shows that the petitioner was not under age on the closing of submission of application form. Therefore, the Respondent-Commission has rightly selected the candidates as the Respondent No.5 to 8 and they are not under age at the time of sending their recommendations to the concerned department. The copy of documents showing actual age of respondent No.5 to 8 is annexed as Annexure R-3/2.

8. That the other contention of the petitioner is that the respondent-Commission has selected the Respondent No.9, 10, 11, 12, 13 & 14 arbitrarily and illegally as they are over-aged. In this regard, it is submitted that Respondent No.10, 11, 12, 13 & 14 belong to BCB, BCB, SC, BCB & BCA categories respectively and have been selected under General category on the basis of marks alone inadvertently as the cut off for the General Category was 129, whereas the respondent No.9 to 14 secured 138, 133, 129, 129, 138 marks respective which is more or equal to cut-off

marks of General category i.e. 129 marks. All these candidates belong to various reserved categories. Now, after the filing of writ petition the error has come to the notice of Respondent-Commission that Respondent No.9 to 14 cannot be considered against General Category, as they are overage and can be considered against their respective category only. In this regard, corrective measures shall be undertaken within the period of 2 (two) months after checking all the data.”

5. No further affidavit and/ or any replication has been filed controverting the aforesaid stand taken by the respondent No.3-Commission.

6. In the premise, since the above position remains uncontroverted and I am in agreement with the stand taken therein, writ petition lacks any merit and is accordingly, dismissed. In any case, trite it is to say that having remained unsuccessful, petitioners have challenged the selection process merely on the basis of certain vague allegations without there being any supportive material, and therefore, having unsuccessfully participated in the process, it is too belated to challenge the selection of those, who have been successful.

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

(ARUN MONGA)
JUDGE

November 15, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No