

213-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8042-2018 (O&M)

Date of decision: November 15, 2022

Amit and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Munish Mittal, Advocate and
Mr. Ankit Kamboj, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

Mr. Abhimanyu Singh, Advocate,
Mr. Shiv Kumar Rana, Advocate for respondent No.10.

Mr. Gaurav Jain, Advocate for respondent No.7.

Mr. Harshvardhan Ranga, Advocate for respondent No.11.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing respondents No.1 to 3 to set aside the selection of respondents No.4 to 9 in the General Category and reconstruct the selection list of said category after deleting the name of respondents No.4 to 9 as they have applied in the Reserved Category and were selected in the General Category even after taking age relaxation benefit.

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 General category. Result for

written examination was declared and petitioners were called for the interview on 26.02.2018, 01.03.2018 and 25.02.2018. Therefore, first selection list was prepared wherein name of the petitioners was not rejected, but respondents No.4 to 13 were considered for appointment. Respondents No.4 to 9 had applied in the reserved category and as they had taken benefit of age relaxation, therefore, they should not have been considered for selection against General Category. It is further pleaded that respondents No.10 to 13 do not fulfil the minimum eligibility criteria i.e., candidate should hold driving license of Heavy Transport Vehicle with three years experience of Driving Transport Vehicle because only if a person is aged above 20 years, he can hold a licence for Driving Heavy Transport Vehicle. Thus, respondents No.10 to 13 having not completed 23 years of age cannot be offered any appointment for the post in question.

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 petitioners have appeared for scrutiny and driving test on 05.12.2017, 13.12.2017 and 07.12.2017 respectively. During the scrutiny of documents the petitioners were found eligible. Copy of attendance sheet for Scrutiny of Documents is placed as Annexure R-3/1.

7. That the petitioner No.1 namely Sh. Amit has obtained total 122 marks (112 marks in written examination + 10 marks in interview), Petitioner No.2 namely Sunil Kumar has obtained total 129 marks (116 marks in written examination + 13 marks in interview), Petitioner No.3 namely Harish Kumar has obtained total 112 marks (104 marks in written examination + 8 marks in interview), whereas 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.2 got selected as the cut off of General Category which was 129 marks was lowered to 128 marks and petitioner No.2 secured 129 marks. The petitioner No.2 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-3/2.

8. *That the other contention of the petitioner is that the respondent-Commission has selected the Respondent No.4 to 9 arbitrarily and illegally as they are over-aged. In this regard, it is submitted that Respondents No.4 to 9 belongs to BCB, BCB, SC, BCB & BCA categories and have been selected under General category on the basis of marks alone inadvertently as the cut off for the General Category was 129 marks whereas the respondent No.4, 5, 6, 8 and 9 secured 138, 138, 133, 129, 129 marks respectively which is more or equal to cut-off marks of General category i.e. 129 marks. All belongs to various reserved categories. Now, after the filing of writ petition the error has come to the notice of Respondent-Commission that Respondent No.4, 5, 6, 8 and 9 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. Concededly petitioner No.2 was selected for the post in question and his name was recommended accordingly. Therefore, learned counsel for the petitioners seeks permission to withdraw the petition *qua* petitioner No.2.

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

7. 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 except for petitioner No.2, who is stated to have been selected during pendency of the writ proceedings. *Qua* petitioner No.2, writ petition stands dismissed as withdrawn, as prayed for. 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

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No