

213-5

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: November 15, 2022
CWP-9920-2018 (O&M)

Ram Phal

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajender Kumar, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana.

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-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 selected candidates and not to prepare a revised final list.

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. Petitioner applied for the said post. Result for written examination was declared and petitioner was called for driver proficiency test vide notice dated 10.11.2017. He appeared in the scrutiny of documents on 18.12.2017 and also appeared for the interview. Vide notice dated 03.03.2018 (Annexure P-3), respondent No.3-Commission issued final result (partial) and result of 25 posts was withheld to await the outcome of CWP-400-2018 and connected petitions.

Further, respondent No.3-Commission also declared detailed recommendation list (Annexure P-4) whereby fraudulent candidates were selected in the said list.

Five candidates were selected in general category who have taken age benefit in their own category, but they cannot be considered against a general post. Reliance has been placed on Government instructions dated 25.06.1997 and 03.12.2003 (Annexures P-5 and P-6, respectively). Three persons were selected who were less than 20 years of age and one person was less than 21 years of age. Minimum age requirement was 18 years as per the advertisement.

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-5 to 7 thereof:

“5. That it is submitted that on the basis of written examination, scrutiny of documents and interview the petitioner was not shortlisted for final result for the post in question because the petitioner has obtained less marks than the last selected candidate in petitioners respective category i.e. SC Category. Due to lesser marks of petitioner than the cut-off marks the petitioner was not selected for the post in question.

6. 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, 1989 & 1988 not 1998. Further, while sending the recommendations of the candidates the Respondent-Commission mentioned their birth year as 1998 instead of actual date of birth of petitioners due to typographical mistake.

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

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.

7. That the other contention of the petition 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 respectively 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, petitioner has 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