

[105] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.25031 of 2021
Date of Decision : 10.01.2022

Rajeev ...Petitioner

versus

State of Haryana and othersRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Sunil Kumar Nehra, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

B.S. Walia, J. (VC)

[1] Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

[2] Challenge in the petition under Articles 226 / 227 of the Constitution of India is to the result of physical screening test (PST) (Annexure P-4) dated 24.10.2021 as well as final result (Annexure P-7) dated 31.10.2021 for the post of Sub Inspector (Male) declared by the Haryana Staff Selection Committee in respect of Advertisement No.3/2021 (Annexure P-1) dated 15.06.2021.

[3] Learned Counsel contends that the Haryana Staff Selection Commission advertised approximately 400 posts of Sub Inspector (Male), vide (Annexure P-1), out of which 56 posts were reserved for the BCA Category. As per the advertisement, criteria for selection comprised of knowledge test, physical screening test as well as physical

the standard prescribed for physical screening test would be eliminated from further participation in the selection process. Relevant extract of the advertisement is reproduced as under :-

Physical Sereening Test (PST)

- (a) Candidates, equaling seven (07) times the number of vacancies in each category on basis of marks shall be declared to have qualified the Knowledge Test (KT).*
- (b) The candidates who have qualified in Knowledge Test shall be put to a Physical Screening Test, which would be only qualifying in nature, to judge their physical fitness and endurance. The standards prescribed for this test shall be as under:-*

<i>Candidates</i>	<i>Test Distance</i>	<i>Qualifying Time</i>
<i>1. Male</i>	<i>2.5 Kilometers</i>	<i>12 Minutes</i>
<i>2. Female</i>	<i>1.0 Kilometers</i>	<i>6 Minutes</i>
<i>3. Ex-serviceman</i>	<i>1.0 Kilometers</i>	<i>5 Minutes</i>

- (c) The responsibility of having the requisite medical fitness to undergo this test shall rest upon the candidate and Commission shall not be responsible for any mishap.*
- (d) The candidates who fail to meet the standards prescribed for Physical Screening Test shall stand eliminated from further selection process.***
- (e) Only the candidates who qualify the standards prescribed for Physical Screening Test shall be allowed to take part in the further process of selection.”*

by the petitioner was disposed of vide order dated 27.10.2021 by directing the competent authority to look into the grievance of the petitioner as contained in representation dated 25.10.2021 as also by keeping in view the contentions raised in the writ petition and take a decision in respect thereto and that pursuant thereto, today he has been furnished a copy of order dated 21.12.2021 passed by the Secretary, Haryana Staff Selection Commission, Panchkula, informing that due to non completion of the race of 2.5 kms by the petitioner within the stipulated period of 12 minutes, instead, completing the same in 12 minutes 550 milliseconds and in view of no candidate having been allowed to carry any type of watch / stopwatch, the contention of the petitioner that he had completed the race in 11 minutes 50 seconds was misconceived, besides each candidate had been provided with a separate chest number and a RFID tag and time of completion of race was measured through readings as calculated by RFID tag, through sensors installed at the start and finish point of the running track. Copy of the aforementioned order as supplied to learned counsel for the petitioner, is taken on record.

[5] Learned Counsel contends that the petitioner completed the race in less than 12 minutes or at best in 12 minutes 550 milliseconds, and that the 550 milliseconds were liable to be ignored and the petitioner deemed to have completed the distance of 2.5 KMS within 12 minutes. On query regarding the basis for assertion that the petitioner completed the race in 11 minutes 50 seconds, learned counsel states that he does not press the point regarding the petitioner having completed the race in 11 minutes 50 seconds and confines his submission only to exclusion of 550 milliseconds taken by the petitioner beyond the prescribed period of 12

minutes in computing the time required for completing the race.

[6] Learned Deputy Advocate General on the other hand contends that time stipulated for completing the physical screening test was as per criteria stipulated in the advertisement while time taken by candidates was recorded electronically by using Radio Frequency Identification Device (RFID) Technology and the petitioner failed to qualify the stipulated distance within the specified time, therefore no intervention was called for. Learned Deputy Advocate General has also referred to orders in CWP No.16498 of 2016 taking note of the manner of recording timing of physical screening test via Radio Frequency Identification Device Technology i.e. :-

- “ 1. *Registration of candidate on the basis of admit card along with taking biometric thumb impression as well as capturing photograph, issuing the chip and chest number,*
2. *Capturing the photograph at the start point,*
3. *Capturing the photograph at mid-point,*
4. *Capturing the photograph at end point through CCTV installed at start point, mid-point and finish point and*
5. *De-registration of the candidate by taking thumb impression through biometric device, capturing photograph, taking back the chip and chest number. ”*

[7] Learned Deputy Advocate General by referring to the decision in CWP No.16498 of 2016 contends that the terms and conditions as also the manner of conducting the physical screening test were displayed not only on the notice board but also at different locations

at the physical screening test site, besides were repeatedly announced through the public address system and that in the circumstances, the process followed for the physical screening test was absolutely fair, transparent and foolproof, that the petitioner did not qualify the physical screening test on account of non completion of the stipulated distance within the specified qualifying time i.e. 12 minutes, that it was not open to a candidate to seek exclusion of time beyond the stipulated period of time, howsoever little extra the same was, therefore, in the circumstances, no interference was called for in the matter and the petitioner on account of not qualifying the physical screening test was rightly not permitted to participate in the subsequent stage of the selection process.

[8] On query, learned counsel fairly concedes that RFID Device was used to record the time electronically through sensors, at the start and finish point in which candidates covered the distance. Learned Counsel also does not dispute that conduct of physical screening test comprised of running a race of 2.5 kms in 12 minutes in conformity with Rule 12.16 of the Punjab Police Rules as amended vide Haryana Government Notification dated 18.06.2015.

[9] I have considered the submissions of learned counsel. Admittedly, as per criteria applicable, a candidate failing to meet the standards prescribed for Physical Screening Test was eliminated from further selection process and only candidates qualifying the standards prescribed for Physical Screening Test were allowed to take part in the further process of selection. A large number of candidates participated in the physical screening test. The Commission adopted Radio Frequency Identification Device Technology for recording the timing of completion

register at the start point by affixing his thumb impression in a biometric device and a chip and chest number were allocated to every candidate, besides a photograph of every candidate was clicked at the start, mid and end point through CCTV while the chip worn by a candidate recorded the presence of the candidate at the halfway mark as well as end point to ensure that no impersonation took place and only the candidate, who had registered at the start point alone completed the same. The procedure adopted by the Commission is not only fair, just and reasonable but also eliminates instances of impersonation as also human error in recording the time.

[10] In the absence of any other device except RFID having been used for recording the time taken in completing the race in the physical screening test, learned counsel has fairly given up the plea of the petitioner having completed the race in 11 minutes 50 seconds. However, plea regarding exclusion of 550 milliseconds taken by the petitioner beyond the prescribed period of 12 minutes in computing the time required for completing the race is devoid of merit for the time limit for completing the specified distance of 2.5 kms is as per criteria stipulated in the advertisement. All candidates were assessed as per uniform criteria. Admittedly, the petitioner did not complete the race of 2.5 kms in 12 minutes but took 550 milliseconds more. Excluding excess time taken by the petitioner i.e. 550 milliseconds would thus not only be contrary to the criteria stipulated for assessment but would result in treating unequals as equals. Once a particular time has been stipulated for completing the race of 12.5 KMS, only those completing the race within the stipulated time i.e. 12 minutes will be deemed to have qualified it. A candidate qualifying it in time more than the stipulated time cannot be

deemed to have qualified the race even if the excess time is only in milliseconds. Moreover, there is no challenge to the criteria laid down in the advertisement. Even otherwise, once having participated in the selection process in full knowledge of the criteria applicable, on being unsuccessful, it would not be open to the petitioner to turn around and challenge the same. Accordingly, finding no merit in the writ petition, the same is *dismissed in limine*.

(B.S. Walia)
Judge

10.01.2022
'Rajneesh'

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