

245 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7305-2021
Date of Decision: 18.12.2023

Kapil Dev and others	...Petitioners
Vs.	
State of Haryana and another	...Respondents
2. CWP-4067-2021	
Pankaj	...Petitioner
Vs.	
State of Haryana and another	...Respondents
3. CWP-9237-2022	
Aditya Sikaligar and others	...Petitioners
Vs.	
State of Haryana and another	...Respondents
4. CWP-10658-2022	
Sandeep Kumar and others	...Petitioners
Vs.	
State of Haryana and another	...Respondents
5. CWP-2640-2022	
Himanshu Sharma and others	...Petitioners
Vs.	
State of Haryana and another	...Respondents
6. CWP-4471-2022	
Vikash Kumar Sheshma	...Petitioner
Vs.	
State of Haryana and another	...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajiv Sharma, Advocate
for the petitioners in CWP-7305-2021, CWP-9237-2022 &
CWP-10658-2022.

Mr. Rajiv Sharma Hisarwale, Advocate

for the petitioner in CWP-4067-2022

Mr. Harshit, Advocaes with
Ms. Anisha Sharma, Advocate and
Ms. Sushmeet Kaur, Advocate
for the petitioner in CWP-4471-2022.

Mr. Manoj Kumar Tanwar, Advocate
for the petitioner in CWP-2640-2022.

Mr. Harish Nain, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present bunch of petitions, the grievance being raised by the petitioners is that they should be treated eligible so as to compete for 671 posts of Mid Level Health Providers-cum-Community Health Officers, (MLHPs cum CHOs) which were to be filled up on contract basis under National Health Mission in various Districts of the Government of Haryana.

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand. The advertisement dated 28.12.2020 (Annexure P-1) was issued by the National Health Mission, Haryana, for the recruitment of 671 posts of the Mid Level Health Providers-cum-Community Health Officers to be filled up on contract basis, which appointments were to be made in various Districts of Haryana as envisaged in the advertisement itself. The 671 posts were bifurcated in various Reserved Categories and different number of posts were available in different Districts of Government of Haryana.

3. As per the essential eligibility, certain eligible candidates were required to possess the essential qualification as mentioned in the advertisement itself. As per the Condition No. 3(i) of the eligibility criteria,

the candidates were required to submit their final year detailed marks certificate (DMC) along with copies of all previous years detailed marks certificates at the time of document verification. The candidates who could not produce the final year DMC at the time of document verification, were declared ineligible for further selection process. The petitioners in the present petition are the ones, who were appearing in the final year of B.Sc (Nursing). Upto the last date of submission of application forms, their result of the said examination had not been declared upto the last date of submitting of the application form for the post in question i.e. 31.01.2021. The petitioners were provisionally allowed to compete on the ground that they were appearing in their final year examination which was a basic essential qualification which is required to be eligible so as to compete for the post in question and can produce the eligibility upto the date documents are verified.

4. The selection for the post in question was to be made on the basis of the written examination coupled with the scrutiny of the documents. The petitioners appeared for the written examination and cleared the same and were called for scrutiny of their documents which was fixed from 08.03.2021 till 26.03.2021. The petitioners appeared for the scrutiny of documents but as they could not produce their final year detailed mark certificate, the petitioners were declared ineligible as per Clause 3(i) of the eligibility conditions as mentioned in the advertisement. It may be noticed that upto the date of scrutiny of document, result of final year examination was not declared so as to grant eligibility to the petitioners.

5. The petitioners approached this Court raising a claim that once the petitioners have been allowed to compete and their final year result of the

course, which is an essential qualification as per the advertisement, has not been declared by the University/Institution concerned, the petitioners should not be prejudiced on account of any action which is beyond their control, hence, they be treated eligible with the further prayer that they be allowed to submit their documents qua possession of the essential qualification before the conclusion of the selection process.

6. By an interim order, this Court directed the petitioner to present their documents qua eligibility which was complied with by them. Learned counsel for the petitioners argue that once the petitioners have also submitted the documents with regard to the minimum eligibility required to compete for the post in question though, the same was under the direction of the Court, hence, the petitioners have to be treated eligible for all intents and purposes.

7. Learned counsel for the respondents on the other hand submits that in the present case, it is a conceded position that on the last date of submission of the application form for the post in question, the petitioner did not had the minimum eligibility qualification required to compete for the post but still they were allowed to compete on the ground that they were appearing in the final year examination so that in case, they clear the same before scrutiny of the documents, they should be treated eligible so that no prejudice is caused to them. But, the scrutiny of the documents took place from 08.03.2021 till 26.03.2021 by which date, the petitioners failed to submit their final year detailed marks certificate to prove their eligibility to compete for the post in question hence, they were rightly being declared ineligible keeping in view the clause 3(i) of the eligibility conditions as

envisaged under the advertisement in question hence, the petitioners cannot be allowed to raise any grievance.

8. The further argument of the counsel for the respondents is that, the selection process was complete when the final result was declared on 08.07.2021 and even upto the said date, the petitioners have not been able to gain minimum eligibility required to become eligible to compete for the post in question, hence, once during the selection process, the petitioners failed to gain the eligibility for the post in question, as prescribed under the advertisement, the petitioners cannot claim that they are eligible to compete merely on the ground that they had appeared in the written examination, and the Court had directed them to submit their documents during the pendency of the present petition.

9. I have heard learned counsel for the parties and have perused the record with their able assistance.

10. The only question which is required to be adjudicated is whether in the facts and circumstances of the present case, the petitioners can be treated as eligible for the post in question.

11. It is a conceded fact that the minimum essential qualifications were prescribed in the advertisement itself which were required to be possessed by the candidates in order to compete for the post in question. Keeping in view certain facts, a leverage was given by the selecting agency that any candidate who is appearing in the final year examination to be eligible with the candidates that have to prove their eligibility at the time of the scrutiny in case they clear the other aspects of the selection process including the written examination. That being the criteria for selection, the

claim of the petitioner needs to be within the four corners of the criteria provided in the advertisement so as to treat them eligible for the post in question.

12. It is a conceded position before this Court that upto the last date of the submitting the application form i.e. 31.01.2021 the petitioner did not had the minimum eligibility required to compete for the post in question. Not only this, even on the date when the written examination was held, the petitioners were ineligible qua the minimum eligibility required. Even on the date of the scrutiny, which was held in March 2021, upto which date, the eligibility was required to be proved by the candidates, the petitioners were not eligible as they did not have passed the final year examination which is a minimum qualification required to compete for the post in question. It is also a conceded position that the selection process was finalized by declaration of result on 08.07.2021 on which date also, the petitioners did not had the minimum eligibility required for the post in question so as to compete for the same.

13. Under these circumstances when, from the day one of the initiation of the selection process till the completion of the selection process, the petitioners failed to gain the minimum essential eligibility required to compete for the post in question, as enumerated in the advertisement, the petitioners cannot claim eligibility. The terms and conditions of the advertisement are sancrosanct and the candidates are required to fulfill all those terms and conditions in order to gain the access to compete for the post in question.

14. In the present case, the petitioners have failed to demonstrate

that at any given point of time starting from the date of issuance of the advertisement till the declaration of final result on 08.07.2021, the petitioner gained eligibility to compete for the same as envisaged in the terms of the criteria envisaged under the advertisement. Hence, the petitioners cannot be allowed to compete for the post in question being ineligible.

15. It is a settled principle of law settled by the Hon'ble Supreme Court of India that the candidate must attain all the eligibility qualifications upto the last date of submitting of the application form. Though, upto the last date of submission of application form, the petitioners did not fulfill the required eligibility but, keeping in view the fact that the candidates who were appearing in the final year examination which was also one of the required minimum qualification to be eligible to allow them to compete were required to produce their detailed marks certificate to prove that they have minimum required qualification on the date of scrutiny of documents, which concededly the petitioners could not submit, hence, they were rightly declared ineligible.

16. The judgment of the Supreme Court in Civil Appeal No. 7677 of 2021 decided on 16.12.2021 titled as State of Bihar Vs. Madhu Kant Ranjan and others squarely covers the case of the petitioners against them that the candidates has to prove eligibility as per the terms and conditions of the advertisement. Relevant paragraph No.9 of the judgment is reproduced as follows:

As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents,

which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1 – original writ petitioner did not produce the photocopy of the NCC ‘B’ certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC ‘B’ certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1 – original writ petitioner on the post of Constable considering the select list dated 08.09.2007 and allotting five additional marks of NCC ‘B’ certificate.

17. Learned counsel for the petitioners argued that once by an interim order passed by the Coordinate Bench of this Court, the petitioners were asked to submit their documents provisionally, the respondents were under an obligation to consider the petitioners eligible for all intents and purposes. Qua the said arguments, it may be noticed that the said order was passed by the Coordinate Bench of this Court on 03.02.2022 and the Department was directed to keep some seats vacant for the petitioner if they are found meritorious. It may be noticed that interim order is not a final order. Any interim directions given are subject to final order to be passed in the writ petition. Merely that the petitioners were asked to provisionally submit their documents for the consideration of the Department and that too when entry selection process was already over, the petitioners will not gain the eligibility in case, they do not fulfil the same as per the terms and conditions of the adjustment and once it is a conceded position that the petitioners are ineligible under terms and conditions of the advertisement from the date of initiation of the process till the completion of the same, the

petitioners have rightly been declared ineligible to compete for the post in question.

18. No further argument was raised. No ground for interference is made out in the present case.

19. Keeping in view the above, the present petition is dismissed.

20. A photocopy of the order be placed on the files of other connected cases.

(HARSIMRAN SINGH SETHI)
JUDGE

18.12.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No