

CWP No.8986 of 2023

[1]

2023:PHHC:061889

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

116

CWP No.8986 of 2023

Date of decision:01.05.2023

Kavita Yadav

... Petitioner

Vs.

Haryana Staff Selection Commission

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Madan Pal, Advocate
for the petitioner.

Mr. Pankaj Middha, Addl.A.G., Haryana
for the respondent.

SUVIR SEHGAL, J. (Oral)

1. Instant writ petition has been filed for issuance of a writ in the nature of *certiorari* for quashing Clause 19.1 of Advertisement No.3/2023 dated 07.03.2023 (Annexure P-4) and for issuance of a direction to the respondent to allow the petitioner to fill-up and upload application form for Group-C post under BC-B Ex-Servicemen (ESM) category.

2. Vide notification dated 05.05.2022 (Annexure P-1), Govt. of Haryana notified Policy for Recruitment to Group C and D posts through Common Eligibility Test (CET) 2022. Advertisement bearing CET-01-2022, (Annexure P-2) was issued informing desirous candidates that CET is being held. Applications were invited from the candidates to get themselves registered on or before 08.07.2022. The date was subsequently extended to

10.07.2022. Petitioner filled the application form in BC-B category and successfully cleared the written examination by scoring 67.94 marks. By advertisement No.3/2023 (Annexure P-4), Haryana Staff Selection Commission-respondent invited applications from successful candidates for written examination/skill test.

3. Counsel for the petitioner asserts that besides being a BC-B category, petitioner is also a Dependent of Ex-Serviceman, but there is no provision in the online application form to enable her to opt for the ESM sub-category. He submits that after acquiring the eligibility certificate dated 05.04.2023 (Annexure P-7), petitioner approached the respondent and submitted a representation on 19.04.2023 (Annexure P-6), but to no avail. He urges that an opportunity has been provided to other candidates whose results have been declared provisionally to upload various certificates but no such opportunity has been given to candidates like the petitioner whose result has been finally declared. He argues that at the time of filling the online application form, an error was committed by the cyber cafe operator for which the petitioner cannot be made to suffer. Reliance has been placed upon Division Bench judgments of this Court in LPA No.320 of 2019 titled as '**Haryana Staff Selection Commission through its Secretary Vs. Sarla and others**', decided on 22.02.2019 (Annexure P-10) as well as upon LPA No.385 of 2017 titled as '**Kiran Bala Vs. State of Haryana and others**', decided on 23.01.2023 (Annexure P-11). He has also made a reference to the judgment of Hon'ble Supreme Court in **Dolly Chhanda Vs. Chairman JEE 2004(4) SCT 546** to buttress his submissions.

4. On the basis of advance copy having been served upon the Commission, learned State counsel has assisted the Court after getting instructions. He has submitted that no change in the category can be permitted at this late stage. Reliance has been placed by him upon the instructions which form a part of advertisement as well as upon the judgments passed by this Court.

5. I have considered the rival arguments addressed by counsel for the parties and examined the material placed on the record.

6. A perusal of the Eligibility Certificate (Annexure P-7) issued by the District Sainik and Ardh Sainik Welfare Department, shows that it has been granted to the petitioner on 05.04.2023 and her name appears at registration No.47-2023 with the Zila Sainik Board. It is, therefore, apparent that the certificate has been issued to her after the final result of written examination of CET which was declared in January, 2023. It appears that after the issuance of certificate in April, 2023, petitioner is making this attempt to get a sub-category added, which cannot be permitted.

7. Clause 3.10 of Advertisement (Annexure P-2) specifically provides as under:-

“3.10 Family member of ESM candidates of Haryana claiming benefit must have valid eligibility certificate on the last date of submission of online application form which is to be uploaded at the time of submitting application and shall produce the valid Eligibility Certificate from the concerned Zila Sainik Board if called upon to do so by Haryana Staff Selection

Commission. ESM candidates should also upload/produce attested photo copy of Identity Card issued by concerned Zila Sainik Board & Discharge certificate or NOC. NOC should be issued before cut-off date. Disabled ESM shall upload and produce disability certificate/family member of Martyr shall upload and produce relevant certificate/Battle Casualty certificate which proves the Martyr status.” (emphasis added)

8. There is nothing on record to show that the petitioner was in possession of an Eligibility Certificate prior to 08.07.2022, the cut-off date fixed under advertisement (Annexure P-2). A Division Bench of this Court in LPA No.429 of 2018 titled as **Manjeet Singh Vs. Haryana Public Service Commission and another**, decided on 22.02.2023 has held that cut-off dates in recruitment process are sacrosanct and need to be followed without departure. The judgments relied upon by the counsel for the petitioner are, therefore, not attracted to the facts of the present case. In **Dolly Chhanda’s case (supra)**, Hon’ble Supreme Court has held that the general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in the application form, as the case may be, unless there is any express provision to the contrary. It has been further held that there can be no relaxation in this regard, i.e., in the matter of holding requisite eligibility qualification by the date fixed. This observation rather goes against the petitioner as she had not been able to show that she possessed the requisite certificate prior to the cut-off date.

9. In view of the above discussion, this Court does not find any merit in the petition which is hereby dismissed.

May 01, 2023
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes