

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.10923 of 2022(O&M)

Date of Decision.23.02.2023

Rajan

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Parth Goyal, Advocate
for the petitioner.

Mr. Narinder Singh Behgal, AAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

C.M. No.278 of 2023

Application is allowed.

Replication is taken on record.

CWP No.10923 of 2022

This is a writ petition that has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing result dated 30.04.2021 (Annexure P-13), individual result dated 18.06.2021 (Annexure P-14) and detailed result dated nil (Annexure P-17) to the extent that petitioner has not been considered for appointment to the post of Lower Division Clerk in the waiting list of BCA Category, as he has not been awarded marks for the experience, with further prayer to issue a writ in the nature of mandamus, directing the respondents to consider the petitioner among waiting list candidates by awarding minimum 1.5 marks for experience.

In brief, the facts as enumerated in the writ petition are that the petitioner applied for the post of Lower Division Clerk (in short LDC) in pursuance to advertisement dated 05.07.2019 issued by respondent No.4. The closing date for submission of online application was 25.07.2019, which was

extended till 25.08.2019 and again till 03.02.2020. The written examination for the said post was held on 26.02.2020 and result of the same was declared on 12.03.2021 in which petitioner had been declared successful. Scrutiny of documents was scheduled for 15.03.2021, on which date, petitioner duly appeared for scrutiny of documents and submitted another experience certificate dated 12.03.2021 (Annexure P-12). The final result was declared on 30.04.2021 wherein name of the petitioner was neither shown in the list of selected candidates nor in the waiting list of BCA category, as cut-off for the selected candidates and the waiting list was 66 and 64 marks respectively, whereas petitioner herein obtained 58 marks in the online test and 5 marks were awarded to him under socio-economic criteria, adding up his total to 63 marks. The petitioner was entitled for minimum 1.5 marks as he had experience of more than 4 years 5 months as Accounts Clerk under the Outsourcing Policy Part-2 in Municipal Committee, Pehowa. In support of the same, he also attached experience certificate dated 23.07.2019 (Annexure P-7) as well as experience certificate dated 12.03.2021 (Annexure P-12) but the same were not taken into consideration by the respondent-Commission. Aggrieved against the said action of the respondent-Commission, petitioner approached this Court by way of filing CWP No.11848 of 2021 titled as *Rajan Vs. State of Haryana and others* decided on 06.07.2021, which was dismissed as withdrawn with liberty to approach this Court again, in case grievance of the petitioner still persists and any candidate, who has less than 65.5 marks is being considered for appointment from the waiting list of BCA category. Thereafter, petitioner made a complaint on the CM window and as per reply received by him on 11.08.2021, claim of the petitioner regarding award of marks against the experience certificates furnished by him, has been rejected on the ground that experience certificate was not as per

requisite format, as the same was without number, date and stamp of the issuing authority. Hence, the writ petition.

Learned counsel appearing for the petitioner would argue that experience certificates of the petitioner were not taken into consideration and the same were rejected only on hyper-technical ground. The petitioner herein at the time of scrutiny of document also submitted another experience certificate dated 12.03.2021 (Annexure P-12) in which number and date has been mentioned and the same duly bore stamp of the issuing authority. It is further argued that as per information obtained under the RTI Act, waiting list for BCA category had been operative and certain candidates have also been offered appointment. In case, petitioner is awarded 1.5 marks against the experience certificate furnished by him, total marks of the petitioner would come to 64.5 and therefore, he would be entitled for appointment to the post of LDC, as the cut-off for waiting list under BCA category was 64.

Per contra, learned counsel appearing for the respondent No.4-Commission would argue that petitioner is not entitled for any mark for the experience certificates furnished by him. The experience certificate dated 23.07.2019 for the period from 06.07.2015 to 15.12.2018 issued by the Municipal Committee, Pehowa, District Kurukshetra had not been taken into consideration as the same was without number, date and stamp of the issuing authority and even the salary was not mentioned therein. As regards another experience certificate dated 12.03.2021 (P-12), the same could not be considered owing to the fact that it was issued after the cut-off date of submission of the application.

I have heard learned counsel for the parties and have perused the paper book. The short question before this Court which needs to be answered is; whether the petitioner is entitled for 1.5 marks for the experience certificates

furnished by him and the answer is in negative. Admittedly, the experience certificate dated 23.07.2019 (Annexure P-7) did not bear number, date and stamp of the issuing authority and therefore, has rightly been rejected by the respondent No.4-Commission. As regards experience certificate dated 12.03.2021 (P-12), which has been issued by the same authority, though with number, date and stamp, the same has been issued after the cut-off date for submission of application, which was extended on two occasions upto 03.02.2020 and therefore, could not be taken into consideration. Moreover, said certificate did not mention the period of employment as it only stated that the petitioner is continuously working from 06.07.2015 whereas the earlier certificate dated 23.07.2019 stated the period of employment from 06.07.2015 till 15.12.2018. It is not comprehensible that the same authority issued a certificate dated 23.07.2019 mentioning the period of employment of the petitioner from 06.07.2015 to 15.12.2018 and while issuing another certificate dated 12.03.2021 mentioned that petitioner is working as Accounts Clerk on contract basis under Outsourcing Policy-2 continuously from 06.07.2015, meaning thereby, petitioner was still in employment when the certificate was given. There is a stark variation of fact of period of employment of the petitioner with Municipal Committee, Pehowa in both the certificates.

In view of the aforesaid facts and circumstances, this Court finds that the petitioner is not entitled for 1.5 marks for the experience as claimed by him. Consequently, the instant writ petition stands dismissed, being devoid of merit.

(JAISHREE THAKUR)
JUDGE

February 23, 2023

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No