

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

**LPA No.817 of 2023(O&M)
Date of decision:03.08.2023**

Anil Kumar

... Appellant

Versus

State of Haryana and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Vivek Sharma, Advocate, for the appellant.

ARUN PALLI, J.

1. This is an intra-court appeal, under clause X of the Letters Patent, against an order and judgment dated 20.03.2023, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.
2. The appellant before the Writ Court had prayed for the following substantive reliefs:

“... Mandamus directing the Respondents to consider the Petitioner for appointment to the post of Conductor with all consequential benefit w.e.f. the date his junior has been considered and further considering the sports gradation certificate dated 26.8.2009 (Annexure P-2) issued in favour of the Petitioner for appointment to the post of conductor despite the fact the same is being issued after last date of submission of application form, in view of judgment passed by this Hon'ble Court in CWP No.7666 of 2015.”

3. Learned Counsel for the appellant submits that pursuant to advertisement dated 01.03.2009 (P-1), Haryana Staff Selection Commission ('Commission'), had invited applications to fill up 3837 posts of Conductors, of which 41 posts were earmarked for Outstanding Sports Person (OSP). The selection was to be carried out on the basis of the written examination followed by an interview. The appellant competed for the selection in **OSP-General** category. He passed the written examination and was even called for the interview on 04.05.2011. In support of his claim, he submitted his Sports Gradation Certificate dated 26.08.2009 (P-2). The Commission declared the result on 01.02.2012 (P-3). However, the name/roll number of the appellant was neither reflected in the list of selected candidates nor in the waiting list. The last selected candidate under **OSP-General** category had scored 123 marks, whereas the appellant had obtained 131 marks (122 in written examination and 9 in interview). However, it was upon making the necessary inquiries that he learnt that as the last date to submit the application form was 20.08.2009, whereas the Gradation Certificate that was being relied upon by him was issued on 26.08.2009, his candidature was not considered by the authorities.

4. Further, he submits that another candidate (Kuldeep Singh), who was similarly situated/circumstanced as the appellant, had failed to submit the Gradation Certificate before the cut-off date, and upon his representation, the authorities considered his claim under Outstanding Sportsmen General Category, and he was eventually appointed. Moreover, in reference to the decision dated 29.03.2017, rendered in CWP-7666-2015 (**Pritam Singh v. State of Haryana and others**), he submits that in similar circumstances where a candidate had failed to submit his Gradation

Certificate at the time of interview and had only produced a provisional certificate, this Court while relying upon a decision of the Supreme Court in **Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and another**, 2016(4) SCC 754, had directed the authorities to consider the certificate issued subsequent to the last date of submission of the application form. Thus, he asserts that once the authorities were considering the certificate of a candidate even after the cut-off-date for appointment, there was hardly any reason, least plausible, to reject the candidature of the appellant. No other argument was raised.

5. We have heard the learned counsel for the appellant and perused the record.

6. Concededly, the last date to submit the application forms was **20.08.2009**. In terms of the advertisement, the candidates in OSP category were required to append Sports Gradation Certificate along with their application forms. Further, the instructions for understanding and compliance by the candidates under the Note at Page 6 of the advertisement (extracted in the response submitted by the State, at page 62 of the paper-book) read as thus:

“i. The benefit of reservation will be given only to those SC/BC/PHC and ESM and outstanding sportsperson candidates who are domicile of Haryana State. The SC/BC/PHC candidates are required to submit SC/BC/PHC Certificate duly issued by the competent authority at the time of interview. **Likewise the Outstanding Sports Person shall be required to attach the Sport Gradation Certificate with the application form as per government instructions duly issued by the competent authority.** DESM shall be required to attach the fresh Eligibility

Certificate duly issued by respective Zila Sainik Board with the application form.

ii. Qualification will be determined with regard to the last date fixed for receipt of online applications.

iii. Candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application. If on verification at any time before or after the written examination or interview or appointment, it is found that they do not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect their candidature will be cancelled.

iv. The experience will be considered only after acquiring the essential qualification.”

7. Concededly, neither did the appellant append the OSP Gradation Certificate with his application form, nor possessed any such certificate before the last date for submission of the applications. Rather, the specific case set out by the respondent-Commission in the written statement, which has not been controverted, is that no such certificate was produced by the appellant even at the time of interview. *Ex facie*, the eligibility of the candidates, per note (*ibid*), was to be considered/determined as on the last date of submission of the applications. Thus, in the given situation, the appellant rendered himself ineligible to even compete or be considered for selection. Therefore, as observed by the learned Single Judge, the authorities considered the claim of the appellant in the General Category. However, for he had obtained 131 marks, whereas the last selected candidate in the General Category had scored 135 marks, his name was not recommended for appointment. So much so, even the candidate in the waiting list had scored 132 marks, whose name was also not recommended by the Commission.

9. As regards Kuldeep Singh, who was alleged to be similarly placed, the learned Single Judge observed that his score was higher than the last selected candidate in the General Category. Therefore, he was considered for appointment.

10. Likewise, the decision of this Court in **Pritam Singh's case** (supra) would also not advance the case of the appellant. For, in that case, the petitioner had appended the provisional Sports Gradation Certificate issued by the District Sports and Youth Programme Officer, who was not the competent authority. However, when the recruiting agency took objection that the required certificate had to be issued by the Director, Sports Department, Haryana, the petitioner produced a fresh Gradation Certificate issued by the competent authority on a later date. Thus, while relying upon the decision of the Supreme Court in **Ram Kumar Gijroya's case** (supra), this Court held that any defect in certificate could be rectified at a subsequent stage and the new certificate deserved to be accepted. Whereas, such was/is not the position in the matter at hand, for the appellant had concededly failed to obtain the Sports Gradation Certificate prior to cut-off date.

11. Further, as observed by the learned Single Judge, pursuant to the advertisement, the Commission had concluded the selection process on 09.02.2012, and sent recommendations to the concerned department. Thus, the writ petition, filed by the appellant on 17.01.2019, apparently suffered from gross, inordinate and unexplained delay. So much so, post selection process in question, the Commission had issued a fresh advertisement (Adv. No.4/2017, Cat. No.2) for the posts of Conductor on 18.05.2017, and finalized the selection process on 02.02.2018.

12. In the wake of the position sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is, accordingly, dismissed.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

03.08.2023
Rajan

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO