

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

CWP No.11564 of 2019 (O&M)

Date of Decision:17.08.2023

Shiv Dayal

...Petitioner

Vs

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Pundhir, Advocate and
Ms. Manu Sangwan, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

Mr. Kanwal Goyal, Advocate and
Mr. Govind Tanwar, Advocate
for respondent No.2.

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HARSIMRAN SINGH SETHI J. (ORAL)

1. The present petition has been filed seeking a direction to be issued to respondent No.2 to consider the petitioner eligible for the post of ADA in the category of Dependent of Ex-Serviceman (SC).

2. As per the averments made in the writ petition, the petitioner belongs to reserved category of Scheduled Caste and his father is an Ex-Serviceman as, he had rendered services in the Indian Army from 23.07.1971 to 31.07.1995. The respondent department issued an advertisement No.2 of 2017 for filling up 190 posts of Assistant District Attorney in the Prosecution Department, Haryana and the petitioner, who considered himself eligible, applied for the post of Assistant District Attorney under the category of Dependent of Ex-Serviceman (SC). The petitioner appeared in the written examination and cleared the same but he was not shortlisted for the further process.

3. On 03.04.2019, candidates were called for scrutiny of their documents wherein it transpired that the petitioner is ineligible on the ground that

the petitioner does not have the latest eligibility certificate describing him as a Dependent of Ex-Serviceman (SC). The said action of the respondents declaring the petitioner ineligible for the post in question is under challenge in the present petition.

4. Learned counsel for the petitioner argues that in the present case once there was no requirement that the latest certificate of the Dependent of Ex-Serviceman is to be attached along with the application form and is also to be produced during scrutiny, non-submission of the same cannot result into disqualification of the petitioner from competing against the post of ADA.

5. Upon notice of motion, respondents filed reply wherein they have submitted that keeping in view the fact that the petitioner is claiming appointment as a Dependent of Ex-Serviceman, he has to submit a latest dependency certificate issued by the Zila Sainik Board describing him as dependent of Ex-Serviceman whereas no such certificate has been attached by the petitioner either with the application form and no such document was produced on the date of scrutiny of documents. As per the respondents, once the required documents have not been submitted by the petitioner, benefit of reservation as claimed by the petitioner cannot be extended to him.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It is a conceded fact that the petitioner did not attach the required eligibility certificate describing him as Dependent of Ex-Serviceman with the application form so as to consider him eligible under the category of Dependent of Ex-Serviceman (SC). The conditions imposed in the advertisement clearly mention that in case a candidate is taking benefit of reservation, documents supporting said claim are to be attached along with the application form and are

to be produced in original at the time of scrutiny of documents. Concededly, the petitioner has not complied with the said condition mentioned in the advertisement. Once the relevant conditions of the advertisement have not been complied with by the petitioner, while claiming benefit of reservation under the category of Dependent of Ex-Serviceman (SC), the claim of the petitioner has rightly been rejected by the respondent-Commission so as to consider the petitioner eligible for selection/appointment for the post of ADA under the category of Dependent of Ex-Serviceman (SC).

8. Learned counsel for the petitioner during the course of arguments has not been able to rebut the contention of the respondent-Commission that the required documents were neither attached along with the application form nor produced at the time of scrutiny of documents, hence, no interference is called for by this Court in the facts and circumstances of the present case qua the action taken by the respondent-Commission.

9. Learned counsel for the respondent-Commission submits that even in the application form, petitioner himself has submitted that he is earning Rs.15,000/- per month whereas in order to seek dependency certificate being Dependent of Ex-Serviceman, a candidate should not have income of more than Rs.6000/- per month, hence, even on this account also, petitioner cannot be treated as Dependent of Ex-Serviceman. The said contention of the respondent-Commission has gone unrebutted at the end of the petitioner.

10. Keeping in view the facts and circumstances noticed hereinbefore, the present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

August 17, 2023
Pankaj*

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