

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15831-2018
DECIDED ON: 20.07.2023

ANIL KUMAR

....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLR MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. S.K Nehra, Advocate
for the petitioner.
Mr. Gaurav Jindal, Addl. AG, Haryana.
Mr. Chander Pal Tiwana, Advocate for respondents.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned final result dated 28.03.2018(Annexure P-3 and P-5) for the post of Lab Technician at ICTC LNJP Hospital and ICTC Ishmilabad under Haryana State AIDS Control Society, Panchkula vide which respondent no.4 has been selected on the post of lab technician for the post advertised vide advertisement (Annexure P-1) and has been wrongly granted one mark for experience whereas she has no experience on any post as per the certificate dated 02.06.2016 (Annexue P-6) and the petitioner has been intentionally not granted five marks for residential status as per the criteria adopted and to issue a writ in the nature of Mandamus directing the

respondents to revise the result for the post of Lab Technician and ICTC Ishmilabad after deleting one mark from the marks awarded to respondent no.4 and five marks be awarded to the petitioner for residential status as per the criteria while directing the the respondents to appoint the petitioner on the post of Lab Technician in the place of respondent no.4 from the same date on which respondent no.4 was appointed along with continuity of service and arrears of salary.

2. The facts are succinctly being mentioned that an advertisement was issued by the office of Director General, Health Service Haryana for filling up vacant posts on contract basis for Haryana State AIDS Control Society wherein it was mentioned that Haryana State AIDS Control Society intends to fill posts on contractual basis for a period upto 31.03.2018 which will be renewed on year to year basis. It was also mentioned in the advertisement that the service conditions shall be governed according to National AIDS Control Organisation (NECO), MOHFW, Government of India issued from time to time(Annexure P-1). In the advertisement, 31 posts of Lab Technicians were advertised vide which two posts were advertised for Kurukshetra District with an essential qualification specified therein that a person should have diploma in Medical Laboratory Technology (DMLT) from State Government approved institution. The petitioner being eligible for the post applied for the post in Kurukshetra District only where there were two posts available, one at ICTC LNJP Hospital and one at ICTC Ishmilabad. Thereafter 7 candidates including the petitioner were called for an interview in the office of Civil Surgeon after the written test where the petitioner was not selected in the final result declared on 28.03.2018(Annexure P-3)

3. The counsel for the petitioner contends that the father of the

petitioner submitted an application under RTI ACT 2005 to the State Public Information Officer, CMO, Kurukshetra to which information was received on 12.04.2018(Annexure P-4) wherein he came to know that the marks for residential status were not granted to the petitioner as the petitioner did not mention the address from Kurukshetra and did not annex any Aadhar Card, Ration Card and Voter Card but the petitioner has annexed electricity bill in the name of his mother of the month of April 2017(Annexure P-8) which was issued to her on 02.11.2016.(Annexure P-9). More so, the petitioner had also applied for Aadhar card(Annexure P-10).

4. The counsel for the petitioner strenuously argues that nowhere in the application it has been mentioned that only Aadhar card, Voter Card and Ration card would be a valid domicile proof. Further, the respondent no.4 has been awarded one mark for experience whereas it is just a letter issued by Senior Medical Officer , LNJP Civil Hospital Kurukshetra which only mentions about the training undergone by respondent no.4 that every student has to undergo after completion of Diploma(Annexure P-6) therefore respondent no.4 has wrongly been granted one mark for experience and the petitioner has wrongly been deprived of five marks under residential status.

5. On the other hand, counsel for the respondent contends that during the course of scrutiny of documents, it was found that the petitioner has not submitted any authentic residence proof rather it was a certificate issued by the Principal of Government Senior secondary School, Thanesar to the effect that Subhash Chander(father of the petitioner) is working as a lecturer and at present is residing at Azad Nagar , Kurukshetra wherein nothing has been mentioned about the current residence of the petitioner and

secondly, the document which was submitted by the petitioner was in the shape of Electricity Bill in the name of Darshana Devi hence in both the documents nowhere it has been mentioned about the residence status of the petitioner. In addition, from the perusal of Annexure P-10 it is quite evident that prior to 16:57PM dated 28.03.2018, the petitioner was not having any residential proof and it was rather created after conduct of interviews.

6. The counsel for the respondent further contends that the experience certificate annexed by the petitioner does not mention about the experience of the petitioner and even if the petitioner is granted five marks for residential proof then also petitioner would be short of one mark and cannot surpass respondent no.4 as she has submitted a valid experience certificate supplied by State Public Information Officer(SPIO) Kurukshetra along with Annexure P-6 (Annexure R-3) whereas petitioner has only annexed training certificate.

7. To the arguments put forth by the respondent counsel, the counsel for the petitioner filed a replication in which he vehemently argues that in the letter dated 23.02.2018, the criteria fixed was that the residents of the district would get five marks but nowhere it was mentioned in the criteria that for residence proof authentic document like Aadhar Card would be required and also it was not mentioned that Aadhar card would be the only proof considered by the Selection Committee for granting five marks for residence of the District.

8. Counsel for the petitioner strenuously argues that the respondents have themselves admitted in the reply that the petitioner could have submitted the certificate issued by MP/MLA/SARPANCH/MUNICIPAL

COUNCILOR and if the certificate of MP/MLA/SARPANCH/MUNICIPAL COUNCILOR can be accepted as an authentic document, then the certificate of the Principal as well as bill of Electricity connection can also be considered as an authentic document. Further, counsel for the petitioner pressed upon the fact that indeed he has never claimed any marks for the experience rather his prayer was to bring to the notice of the court the fact that respondent no.4 has only annexed Annexure P-6 which is simply a training certificate as given in the application reply under RTI ACT 2005 whereas the respondent has annexed R-3 which was not annexed at the time of filling the application form meaning thereby a forgery has been committed by the official respondent by annexing the Annexure R-3

9. Heard both the counsels at length.

10. The present matter pertains to the grievance of the petitioner aggrieved by the impugned result (Annexure P-3 and Annexure P-5) dated 28.03.2018 wherein he has not been granted five marks for residential status despite annexing residence proof in the form of electricity bill and updated version of Aadhar card to which the respondent had denied to accept in the form of authentic residence proof. The counsel for the petitioner after arguing at length had time and again put up the contention that nowhere in the advertisement it had been mentioned that only Aadhar card, Voter card, Ration card would be a valid residence proof.

11. Furthermore, the counsel for the respondent in their written statement has specifically referred to para 3 and 4 wherein respondent authorities has rejected the claim of the petitioner on the ground that the petitioner has failed to produce any other authentic document other than the

electricity bill and that too issued in the name of his mother. Also on the perusal of the said electricity bill, the name of the petitioner or any other detail is not coming forth that he is the resident of the district Kurukshetra.

12. The court is of the considered view that by no stretch of imagination a school teaching certificate issued in the name of the Father of the petitioner and electricity bill issued in the name of the Mother of the petitioner can be considered a valid authentic residence proof of the petitioner since both the documents does not mention about the residence of the petitioner despite of the fact that there being a lot more other authentic documents available wherein he could have opted for better options like Aadhar card, Ration Card, Driving license, Voter card etc and moreso the respondent cannot be blamed for not categorically mentioning about the documents acceptable as authentic residence proof.

13. The writ petition being devoid of any merits is herein dismissed with no costs.

(SANDEEP MOUDGIL)
JUDGE

20.07.2023
Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>