

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

1

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

(102)

**CM No.8868-CWP of 2023 and
CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)
Date of Decision : 22.08.2023**

Joginder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parshant Sethi, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM No.8868 of 2023

Present application has been filed for preponing the date of
hearing of the main petition, which now stands adjourned to 07.12.2023.

Notice of the application to the counsel opposite.

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

2

Mr. Pankaj Middha, Additional Advocate General, Haryana, who is present in the Court accepts notice and has no objection for the grant of the prayer as made in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and hearing the main petition is preponed from 07.12.2023 to today.

CWP No.16455 of 2018

1. In the present petition, the challenge is to the action of the respondents in declaring the petitioner ineligible for competing for the post of Driver as advertised on 18.05.2017. Certain facts need to be mentioned for appreciation of the issue in hand.

2. The Haryana Staff Selection Commission advertised various posts vide Advertisement No.4 of 2017 which included 2038 posts of the Heavy Vehicle Driver under category-1 to be appointed in the State Transport Department. The essential qualifications prescribed for the post of Heavy Vehicle Driver were that the candidates should have done matriculation and should hold a driving license of the heavy transport vehicle with three years experience of driving a heavy transport vehicle. The further requirement was that the candidate should clear the driving test conducted by the Haryana Staff Selection Commission.

3. As the petitioner fulfilled all the requisite qualifications for consideration of his claim, he applied under the General Category for the post of heavy vehicle Driver.

4. The selection was to be made on the basis of the written test, which was held on 06.08.2017 and the petitioner appeared in the said

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

3

written test and was declared successful when the result of the said written test was declared on 10.11.2017. The petitioner having scored 126 marks in the written test had qualified to be called for interview but before the interviews were to be conducted, the candidates were called for the scrutiny of their documents so as to verify their eligibility for the post in question.

5. Alongwith scrutiny of documents, the driving test was also taken by the respondent-Commission and the petitioner cleared the said driving test also. Despite clearing the driving test, the petitioner was declared ineligible subsequently on the ground that the license which was submitted by the petitioner along with the application form mentioned that the endorsement qua the heavy motor vehicle is done in the year 2013 whereas, as per the advertisement, the candidate was required to have three years experience and keeping in view the date of endorsement of allowing the petitioner to drive heavy transport vehicle, the petitioner did not had requisite experience of three years for being eligible to drive the heavy motor vehicle.

6. The said action of the respondents is under challenge in the present petition.

7. It may be noticed that by an interim order dated 24.08.2018, the petitioner was directed to be provisionally interviewed and he has already competed in the selection process envisaged under the advertisement.

8. Learned counsel for the petitioner submits that the ineligibility being attributed to the petitioner is incorrect as, the petitioner

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

4

is having the license to drive a heavy motor vehicle since the year 2004 and in order to support the said claim, he had attached his earlier licenses issued by the Authorities concerned in March, 2004 and that too by the State of Haryana itself, wherein the petitioner has been authorized to drive heavy motor vehicle.

9. Further, as per the averments made in the petition, it is being submitted that in case there was any ambiguity with regard to the eligibility of the petitioner to drive heavy vehicle prior to the year 2013, the respondents should have put the said query to the petitioner during the scrutiny of documents and the petitioner would have clarified the same by attaching his earlier driving licenses so as to prove that the petitioner is authorized to drive heavy motor vehicle since the year 2004 and had already been granted the Certificate by the employer certifying that upto the last date of submission of application forms, the petitioner had more than three years of experience of driving the heavy motor vehicle to his credit but without raising any question to the petitioner during the scrutiny, in the final result, the petitioner has been declared ineligible by unilaterally deciding that the endorsement qua the allowing of the driving of the heavy vehicle in the licenses is of the year 2013 which connotes that the petitioner was ineligible having less than three years experience of driving the vehicle upto the last date of submission of application forms, after being authorized to drive the heavy vehicle.

10. Upon notice of motion, the respondents have filed the reply and in the said reply, the respondents have submitted that as per the license which was submitted by the petitioner, it was mentioned that the

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

5

authorization qua the driving of the heavy motor vehicle was done in the year 2013 hence, the petitioner was rightly declared ineligible for not having three years experience of driving after being authorized to drive the heavy motor vehicle.

11. Further, learned counsel for the respondents submits that in case the petitioner had a license issued in the year 2004 authorizing him of driving the heavy motor vehicle, the same should have been attached with the application form and in the absence of any such document attached, the decision of the respondent in declaring the petitioner ineligible for the post in question is perfectly valid and legal.

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

13. While applying for the post in question, the petitioner had attached his last valid license issued to him by the authorities which gave the due description that he is authorized to drive the heavy motor vehicle. Not only this, the petitioner had also given experience certificate from the employer certifying that the petitioner had been driving heavy motor vehicle for more than three years, which was the requisite qualification needed so as to compete for the post of driver.

14. Once these documents were on record, in case during the scrutiny of documents, there was any clarification needed from the petitioner with regard to the date from which he was authorized to drive the heavy motor vehicle, the respondent-department could have put the said question/query to the petitioner. It is a conceded position that no

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

6

such clarification was sought from the petitioner before declaring the petitioner ineligible so as to compete for the post of Heavy Vehicle Driver.

15. It may be noticed that a valid driving license which the petitioner was holding which described the petitioner having authorized to drive the heavy motor vehicle was attached along with the application form and apart from this he had also attached the Certificate from the employer duly certifying that he had more than three years of experience in driving the heavy motor vehicle, but without clarifying the doubt, unilaterally declaring the petitioner ineligible especially in view of the fact that the petitioner had a valid driving license since the year 2004 authorizing him to drive the heavy motor vehicle, he is still being declared ineligible despite the fact that the petitioner had secured 126 marks in the written examination itself whereas the last candidate selected in the General Category has obtained 128 marks which also includes marks of the interview and in case, the marks of the petitioner for the interview are added, his marks are 138 which are much more than the last selected candidate in the category in which the petitioner is competing.

16. Keeping in view the facts and circumstances of the case, once it is proved on record that the petitioner was eligible to drive the heavy motor vehicle since the year 2004 and that too by the State of Haryana and on the last date of application form he had more than three years experience after obtaining the said approval from the Licensing Authority so as to drive the heavy motor vehicle and had also produced experience Certificate from the employer certifying that he has more than three years experience in driving the heavy motor vehicle, declaring the petitioner

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024

7

ineligible in the facts and circumstances of the present case is totally arbitrary and illegal.

17. The action of the respondent in declaring the petitioner ineligible is quashed. The respondents are directed to verify the driving license issued to the petitioner in the year 2004, which authorizes the petitioner to drive heavy motor vehicle and in case the same is found to be genuine the name of the petitioner be included in the list of the eligible candidates and as the petitioner has secured more marks than the last selected candidate, the respondents are directed to complete the further formalities so as to recommend his name to the authorities concerned for appointment.

18. Learned counsel for the petitioner submits that in case the petitioner is given appointment within a period of next two months, he will not claim any arrears of the salary but he be appointed from the date when a candidate lower in merit than the petitioner has been appointed with all consequential benefits though notionally upto the date of joining.

19. Keeping in view the undertaking given by learned counsel for the petitioner, in case license issued to the petitioner in the year 2004 is found to be genuine, the petitioner will be recommended for appointment to the Transport Department, Haryana and the Transport Department, Haryana will appoint the petitioner from the date when the candidates lower in merit has been appointed with all consequential benefits but notionally, as undertaken by the learned counsel for petitioner.

20. Let this order be complied with within a period of two months from the receipt of a certified copy of this order.

**CM No.8868-CWP of 2023 and CM No.13697-CWP of 2023 in/and
CWP No.16455 of 2018 (O&M)**

Neutral Citation No. 2023:PHHC:109024
8

CM No.13697-CWP of 2023

Application stands disposed of.

August 22, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No