

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(217)

CWP-17894-2018 (O&M)
Date of decision:- 25.01.2023

Surender

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vivek Sheoran, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana
for respondents No.1 to 3.

Mr. Anurag Goyal, Advocate for respondent No.7.

SUVIR SEHGAL, J. (Oral)

CM-15972-CWP-2018

Application is allowed as prayed for.

Reply on behalf of respondent No.6 is taken on record.

Main case

Result of the petitioner produced in compliance of order dated 15.11.2022 passed by this Court is taken on record as Mark 'A'.

Petitioner has approached this Court with two fold prayer. Firstly, petitioner has sought issuance of a writ in the nature of certiorari quashing result dated 03.03.2018, Annexure P-9, whereby underage candidates, who do not possess the requisite experience, have been selected. Second prayer is for issuance of a writ in the nature of mandamus directing the respondents to consider the candidature of the petitioner in the general category for the post of Heavy Vehicle Driver.

Factual position leading to the filing of the petition is that the petitioner was an applicant pursuant to advertisement No.4/2017 dated 18.05.2017, Annexure P-1, by which 2038 posts of Heavy Vehicle Driver(s) were advertised. Petitioner submitted online application for the post under the Outstanding Sports Persons (BCA) category (for short "OSP-BCA"). He successfully cleared the written examination, but was not called for scrutiny of documents-cum-driving proficiency test, which was to be held in the month of December, 2017 and January, 2018. He submitted representation to the Haryana Staff Selection Commission-respondent No.2 and when he it did not yield any result, he approached this Court by filing CWP-7449-2018. Vide order dated 23.03.2018, Annexure P-10, writ petition was disposed off on the statement of counsel for the respondents that the claim/grievance of the petitioner shall be considered within a period of two weeks by passing an appropriate order. Thereafter, by impugned order dated 13.04.2018, Annexure P-11, the claim of the petitioner was rejected as it was found that the petitioner had not attached the Outstanding Sports Persons Gradation Certificate as per Government instructions with the application form and he was found to be ineligible for the post.

In so far as the first prayer of the petitioner is concerned, the same need not detain this Court as it has been dealt with and rejected by a Co-ordinate Bench of this Court by order dated 15.12.2022 passed in **CWP-7699-2018** titled as ***Naveen Kumar and others Versus State of Haryana and others***. Accepting the stand taken by the respondents in their response where the factual position had been clarified, this Court dismissed the writ petition, observing:-

“6. In the premise, since the above position remains uncontroverted and I am in agreement with the stand taken therein, writ petition lacks any merit and is accordingly, dismissed. In any case, trite it is to say that having remained unsuccessful, petitioners have challenged the selection process merely on the basis of certain vague allegations without there being any supportive material, and therefore, having unsuccessfully participated in the process, it is too belated to challenge the selection of those, who have been successful.”

In so far as the second prayer is concerned, counsel for the petitioner has argued that the candidature of the petitioner should have been considered in the general category. By making a reference to the result, which has been produced before the Court today, counsel submits that the petitioner had scored more marks than the last selected candidate in the general category. This argument has been examined. Note appended to the advertisement stipulates as under:-

“Note:-i) The benefit of reservation will be given only to those SC/BCA/BCB/EBPG and ESM and outstanding sportsperson candidates who are domicile of Haryana State. The SC/BCA/BCB/EBPG candidates are required to submit SC/BCA/BCB/EBPG Certificate duly issued by the competent authority at the time of interview. Likewise the Outstanding Sports Person shall be required to produce the Sports Gradation Certificate as per Government instructions duly issued by the competent authority. DESM shall be required to produce the Valid Eligibility Certificate duly issued by the respective Zila Sainik Board at the time of interview.

ii) Qualification and other term and conditions of eligibility 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.” (emphasis added)

In view of the above condition in the advertisement, which is mandatory, on the failure of the petitioner to append the Sports Gradation Certificate, his candidature stood automatically cancelled and therefore the request made by counsel for the petitioner that the candidature of the petitioner should be considered in the general category cannot be entertained. It may be mentioned here that it is not the case of the petitioner that due to inadvertence or otherwise he could not attach the Sports Gradation Certificate. Infact, the petitioner has failed to show that he possesses the Sports Gradation Certificate issued by the competent authority, as per Government instructions.

In view of the above, this Court is of the view that the petition is bereft of merit.

Petition is dismissed.

25.01.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No