

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19999-2017

Date of Decision:- 31.08.2023

SONU YADAV

...PETITIONER

VS

STATE OF HARYANA AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manish Dhanker, Advocate for
Mr. Punit Malik, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G. Haryana.

Mr. Padam Kant Dwivedi, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J. ORAL

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction, especially a writ in the nature of mandamus to provisionally allow the petitioner for interview process scheduled to be held from 02.09.2017 and also for issuance of directions to respondent No.2 to scrutinize ex-servicemen dependency certificate issued by Secretary, Zila Sainik Board, Gurgaon.
2. This court, while issuing notice of motion after recording the contentions of learned counsel for the petitioner, had passed the following order on 04.09.2017, which reads as under:-

“Counsel inter alia contends that the petitioner applied for the post of Shift Attendant against the advertisement dated 20.02.2016 (Annexure P-1) against the ESM-BCB category, for which there are 81 posts and was successful in the written examination. When he was called for scrutiny of documents, he had taken his identity card (Annexure P-4) instead of the certificate which was to be issued by the Zila Sainik Board, Gurugram as per the terms of the advertisement to which the

respondents had objected. Resultantly, the said certificate was got issued on 04.08.2017 (Annexure P-5) and thereafter submitted to the Commission which has not been taken into consideration now on account that the requisite certificate was not there at the time of scrutiny.

Notice of motion.

Mr. Harish Rathee, Sr. DAG, Haryana accepts notice on behalf of the respondents. Copy of the writ petition has been handed over to him.

Adjourned to 26.10.2017.

In the meantime, the petitioner be interviewed provisionally subject to the final decision of the writ petition. However, the result shall not be declared till further orders.”

3. In response to the said notice of motion order, reply by way of affidavit of Deputy Secretary/H.R. and S.R. HVPNL, Panchkula on behalf of respondent No.1 dated 14.02.2018 was filed in which in para 2 of the same, it has been stated that it is Haryana Staff Selection Commission, who is the main contesting party as the said commission had issued the advertisement and is responsible for conducting the entire selection process.

4. On 13.02.2018, a short reply by Rajeev Dudeja, Secretary (Legal), Haryana Staff Selection Commission on behalf of respondent No.2 was also filed stating that the Commission had re-advertised various posts including category No.1 i.e. the post of Shift Attendant vide advertisement No.3/2016 dated 20.02.2016 (Annexure P-1), wherein the petitioner had applied under BCB dependent of ex-servicemen category and roll No.1301627868 was issued and the petitioner appeared in the written examination in person on 29.05.2016.

5. It is an admitted fact as coming from the said affidavit of Mr. Rajeev Dudeja that the petitioner was shortlisted for scrutiny of documents which took place from 05.05.2017 to 11.05.2017. The petitioner had appeared in the scrutiny of documents on 09.05.2017 which is apparent from the attendance sheet placed on record as Annexure R-2/1. At the time of scrutiny of documents, the petitioner failed to produce the DESM certificate and therefore, was declared “not eligible”.

6. This Court though already vide order dated 04.09.2017 had directed the Commission to interview the petitioner provisionally subject to the final decision of the writ petition while staying the result not to be declared till further orders. Subsequently, on 14.02.2018, the result of petitioner was called to be produced in

Court in the sealed cover and accordingly, on 21.02.2023 the result was produced in the Court which demonstrated that the petitioner has obtained 74 marks but could not be offered the appointment in the Ex-servicemen BCB dependent category as necessary certificate was not furnished at the time of scrutiny.

7. Today, during the course of arguments, reference has been made to clause-6 of the advertisement (Annexure P-1) which reads as under:-

6. The hard copy of application form along with all required documents must be brought at the time of verification/scrutiny-cum-interview.

Further,

Note:-2 The dependents will include besides wife/widow, dependant sons/daughters.

The dependants of ESM who fulfill all conditions of qualifications, age etc. prescribed for posts will be considered on merit for the posts reserved for ESM to the extent of non-availability of suitable ESM candidates.

ESM/DESM candidates of Haryana claiming benefit must have valid eligibility certificate on last date of submission of online application form and will have to produce the valid Eligibility Certificate from the concerned Zila Sainik Board at the time of interview. Mere dependant certificate will not be entertained. ESM candidates should also produce attested photo copy of Identity Card issued by concerned Zila Sainik Board & Discharge Book at the time of interview.

8. Learned State counsel while relying upon the aforesaid general instructions has argued that though the petitioner has applied under ESM/DESM category but was not having valid eligible certificate on the last date of submission of application online i.e. 20.02.2016 and therefore, was again provided an opportunity at the time of interview but still the petitioner failed to submit any such certificate. Learned State counsel has further pointed out that the said certificate which has been attached as Annexure P-5 with the paperbook is of dated 04.08.2017 i.e. after the cut of date and was rightly not shortlisted for interview but the petitioner was provisionally allowed to be interviewed under the directions of this Court as an interim measure whereas the result was to be declared subject to the final outcome of the instant writ petition.

9. Heaving heard, learned counsel for the parties and after perusing of record produced before this Court as well as the pleadings made in the writ petition and in the written statement, it is abundantly clear that there is no allegation of any favouritism or any malafide qua any of the members of the selection Committee of

Haryana Staff Selection Commission which conducted the whole process of selection

for the post in question. As far as the candidature of the petitioner is concerned, admittedly his certificate is of dated 04.08.2017 whereas the last date of submission of online application is dated 20.02.2016 and that is why, he could not produce the said certificate even on the said date. However, the petitioner was called for scrutiny of documents on 09.05.2017 which is duly proved from the attendance sheet Annexure R-2/1.

10. In the light of Clause 6 of the advertisement as well, it was made clear at the very first instance by the Haryana Staff Selection Commission that hard copy of the application form along with all required documents must be brought at the time of verification/scrutiny-cum-interview but the petitioner failed to do the same. There is a provision for the candidates applying under the category of ESM/DESM who are claiming the said benefit that they have to produce the valid eligibility certificate from the Secretary, Zila Sainik Board at the time of interview along with attested copy of identity card issued by the concerned Zila Sainik Board and Discharge Book at the time of interview which the petitioner failed to adhere and as such, there is no legal right to challenge the process of selection at this stage since the petitioner at his own, failed to fulfill the requisite conditions and general instructions as stipulated in the advertisement for consideration to the post of Shift Attendant.

11. In the light of the aforesaid discussion and circumstances, the petitioner has no legal right for consideration to the said post. Hence the present writ petition being devoid on merits is ordered to be dismissed.

(SANDEEP MOUDGIL)
JUDGE

31.08.2023
yogesh

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