

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

220

CWP-249-2018 (O&M)  
Decided on : 05.12.2023

Sunesh and another

...Petitioner

Versus

State Of Haryana And Another

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

**PRESENT:** Mr. R. S. Ghuman, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

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**HARSIMRAN SINGH SETHI, J. (Oral)**

1. In the present case, the prayer of the petitioners is that the petitioners should be considered eligible for the appointment to the post of Station Supervisor in the department of Transport, Haryana, which was advertised vide advertisement No. 7/2015 dated 10.07.2015, copy of which has been appended as Annexure P-5.
2. Learned counsel for the petitioners argues that as per the advertisement No. 07/2015, for appointment to the post of Station Supervisor, a candidate was required to be a graduate with minimum five years experience in Motor Road Transport in Government or in Semi Government Department or Public Undertaking. The petitioners considering themselves eligible applied for the post in question but the petitioners were held ineligible by the respondents and the said action of the respondents-department in treating the petitioners ineligible for the post in question is bad in law and respondents-department are liable to be directed to consider the petitioners eligible for the post of Station Supervisor.

3. Upon notice of motion, the respondents filed the reply, wherein it has been mentioned that the petitioners have been declared ineligible for the post in question on the ground that the experience certificates which the petitioners had attached to support their eligibility qua the post in question were not issued either by Government Department or Semi Government Department or Public Undertaking but the said experience is with the private society, which is inadmissible keeping in view the terms and conditions of the advertisement.

4. There is no replication filed to controvert the averments mentioned in the reply filed by the respondents.

5. Learned counsel for the petitioners argues that though, it is a conceded position that experience certificates given by the petitioners were not in consonance with the terms and conditions of the advertisement No. 7/2015 but similarly situated candidates, have already been given the benefit of the appointment on the same post on the basis of the similar experience certificate as given by the petitioners, details of which have been given in paragraph No. 8 of the present petition, hence, the petitioners have been discriminated by the respondents-department and the petitioners are entitled to be treated as eligible candidates for the post of Station Supervisor.

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

6. The argument of learned counsel for the petitioners that candidates similarly situated as the petitioner have already been granted appointment to the post in question, hence the petitioners are also entitled to be considered eligible, cannot be accepted. Once in the advertisement, particular terms and conditions have been mentioned qua the eligibility of a

candidate for the post in question the same has to be treated as a sacrosanct and is to be complied with by everyone who intend to compete for the post in question.

7. Once it is a conceded position that the experience certificate attached by the petitioners to prove their eligibility, is not issued from a Government Department, Semi Government Department or public Undertaking, and the experience gained is with a private entity, the petitioners cannot be treated as eligible so as to allow them to compete for the post in question, hence, the action of the respondents in treating the petitioners ineligible cannot be interfered by this Court.

8. The question that another employee with a similar experience certificate as of the petitioners has been treated eligible and given appointment on the same post, is also not a ground to grant the petitioners the said benefit as, it is a settled principle of law that negative discrimination is not to be allowed. In case, an ineligible person has been granted the benefit of the appointment by the respondents-department, the same cannot be made a ground to the grant the said benefit of appointment to an another ineligible candidate.

9. Moreover, it has already come on record that the inadvertent mistake of giving benefit of appointment to another ineligible candidate, who was having similar experience certificate as the petitioners, has already been treated as a mistake and undertaken to be rectified by the department. That being so, the prayer of the petitioners for treating them eligible for the post of Station Supervisor cannot be accepted hence, no ground is made out for any interference by this Court with the action of the respondents in treating the petitioners ineligible for the post in question.

10. The present petition stands dismissed.

11. Civil miscellaneous application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)  
JUDGE

05.12.2023  
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| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |