

CWP No. 8131 of 2018

2023:PHHC:131885

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

CWP No. 8131 of 2018

Date of Decision : 10.10.2023

Rakesh Kumar

...Petitioner

Versus

Haryana Staff Selection Commission

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rao Ajender Singh, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed with a prayer to direct the respondents to allow the petitioner to appear for interview against the post of Agriculture Inspector (Soil Conservation) in respect of the Advertisement No. 06 of 2016.

Certain facts needs to be mentioned herein for correct appreciation of the issue in hand.

The respondent-Commission issued an Advertisement No. 6 of 2016 inviting applications for various posts including 99 posts of the Agriculture Inspector (Soil Conservation) under Category No. 37. Out of the 99 seats, 04 seats were reserved for Ex-servicemen/Dependent of Ex-servicemen candidates under the BCB Category. The petitioner is claiming the benefit of being dependent of Ex-servicemen qua the post in

question. The petitioner appeared in the written test, which was held on 19.07.2017 and after the petitioner qualified the written examination, he was called for scrutiny of the documents on 10/11.08.2017. On the date when the petitioner appeared for the scrutiny of the documents, it transpired that the dependent of Ex-servicemen certificate, which was being relied upon by the petitioner, was not the valid certificate as per the terms and conditions of the Advertisement as the petitioner did not had a dependent of Ex-servicemen certificate issued by the Zila Sainik Board as required under the Advertisement.

Keeping in view the said objection, the petitioner approached the respondent to submit the certificate, which was issued to him on 16.08.2017, on the basis of which certificate, the petitioner is claiming the benefit of consideration against the 04 posts reserved for the Ex-servicemen/dependent of Ex-servicemen candidates.

The claim of the petitioner is being contested by the respondent-Commission on the ground that as per the terms and conditions of the Advertisement, the candidate was required to have the valid dependent of Ex-servicemen certificate issued by the Zila Sainik Board issued before the last date of the application form, whereas, even on the date of scrutiny of the documents, the petitioner did not had the required valid certificate, hence, the claim of the petitioner has rightly been rejected and the prayer raised in the present petition may kindly be declined.

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

The facts mentioned here-in-before are conceded by the parties concerned. It is a conceded fact that the petitioner did not had a valid dependent of Ex-servicemen certificate on the last date of the submission of the application form as well as even on the date, when the petitioner was called for scrutiny of the documents on 10/11.08.2017 keeping in view the requirement of the Advertisement.

As per the terms and conditions of the Advertisement, a copy of which has been appended as Annexure P-1 with the present petition, relevant part of the same reads as under :-

“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 dependent 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.”

A bare perusal of the above terms and conditions would show that the petitioner was required to have a valid dependent of Ex-servicemen Certificate issued by the Zila Sainik Board, which was required to be produced at the time of scrutiny of documents and concededly, the certificate which is being relied upon by the petitioner, a copy of which has been appended as Annexure P-6, the said certificate has been issued on 16.08.2017 i.e. much after the scrutiny of the

documents, hence, the claim that the petitioner should be considered eligible for the post in question in pursuance to the certificate dated 16.08.2017 (Annexure P-6), cannot be accepted in view of the terms and conditions of the Advertisement.

It may be noticed that the Hon'ble Supreme Court of India in Civil Appeal No. 7677 of 2021 titled as ***The State of Bihar and others Vs. Madhu Kant Ranjan and another***, decided on 16.12.2021 has held that the terms and conditions mentioned in the Advertisement for attaching the documents along with the application form are sacrosanct and non-compliance of the same can result in disqualification. The relevant paragraph 9 of the said judgment is as under :-

“9. As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents, which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1 - original writ petitioner did not produce the photocopy of the NCC 'B' certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC 'B' certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1 - original writ petitioner on the post of Constable considering the select list

dated 08.09.2007 and allotting five additional marks of NCC 'B' certificate."

Keeping in view the above, no ground is made out for any interference by this Court in the present petition.

Dismissed.

October 10, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No