

CM-1729-CWP-2024 in/&
CWP-8293-2023

-1-

2024:PHHC:022459

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CM-1729-CWP-2024 in/&
CWP-8293-2023
Date of Decision :16.02.2024

Rakesh Kumar

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Veena Hooda, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-1729-CWP-2024

Present application has been filed for recalling the order dated 09.01.2024 passed by this Court by which, the main writ petition was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 09.01.2024 passed by this Court is recalled and the main writ petition is ordered to be restored to its original number and status and is taken up for hearing today itself.

CWP-8293-2023

1. In the present petition, prayer of the petitioner is that he should be given due gradation certificate keeping in view his participation in the

sport of Wushu and, thereafter, consider the claim of the petitioner for appointment to the posts, which were advertised by the respondents vide advertisement dated 25.08.2018 (Annexure P/1) on the basis of the said gradation.

2. Upon notice of motion, the respondents have filed reply wherein, it has been mentioned that keeping in view the judgment of the Division Bench of this Court in **LPA-1332-2019 titled as State of Haryana vs. Shankar and others decided on 09.10.2020** the gradation certificates are to be issued on the basis of the Sports Gradation Policy, dated 25.05.2018 (Annexure P/5) and as per the said policy, sport being played by the name of Wushu, on the basis of which the gradation certificate is being demanded by the petitioner, is not a valid sport to issue a gradation certificate.

3. Learned counsel for the respondents submits that after the said claim of the petitioner was rejected, the petitioner again approached the respondents claiming that he has also participated in 16th Circle National Kabaddi Championship, which was held on 01.04.2022 to 03.04.2022, for which the petitioner has already been issued gradation certificate grading him group-D sportsperson, copy of which has been appended with the reply of the respondents as Annexure R-1 but the said gradation certificate cannot be taken into account for any purpose as the petitioner was claiming benefit of gradation so as to compete in respect of the advertisement dated 25.08.2018 (Annexure P/1) whereas, the said sports event for which the petitioner was graded group-D sportsperson, tournament was held in the year 2022 i.e. after the last date of advertisement hence, no benefit of the said gradation can be given to the petitioner.

through the record with their able assistance.

5. Keeping in view the facts which have come on record the petitioner is claiming benefit to compete for the post as advertised vide advertisement dated 25.08.2018 (Annexure P/1) for the reserved category of eligible sportsperson. It may be noticed that so as to become eligible to compete qua the post under the said reserved category, a candidate must have valid sports gradation certificate, which has not been given to the petitioner keeping in view the terms and conditions of the Sports Gradation Policy dated 25.05.2018 (Annexure P/5).

6. As per the judgment of the Division Bench in **LPA No.1332-2019 titled as State of Haryana vs. Shankar and others decided on 09.10.2020** any advertisement which has been issued after the promulgation of the Sport Gradation Policy, dated 25.05.2018, only the sport gradation certificate issued under the said policy dated 25.05.2018 is to be treated valid. The petitioner though, applied for the sport gradation certificate on the basis of the competition in the sport of Wushu, in which the petitioner participated but the benefit of gradation has been declined to him on the ground that Wushu is not a valid sport under the gradation policy dated 25.05.2018 (Annexure P/5) so as to grant him the benefit of gradation certificate.

7. Learned counsel for the petitioner has not been able to satisfy this Court that once under the sports gradation policy dated 25.05.2018 (Annexure P/5), Wushu is not considered as a valid sport so as to grant the benefit of sports gradation certificate to the petitioner, how the action of the respondents in not issuing gradation certificate to the petitioner is totally arbitrary and illegal.

8. It is a settled principle of law that sport gradation certificates are to be issued on the basis of the policy issued by the Government of Haryana and as per the 2018 sports gradation policy, the petitioner is not eligible to be graded for the sport of Wushu as being claimed by him.
9. Even otherwise, on the basis of the subsequent participation of the petitioner in the 16th Circle National Kabaddi Championship, which tournament was held in the year 2022 for which the petitioner has already been given sports gradation certificate, the same cannot be made applicable qua the posts, which were advertised in the year 2018.
10. Keeping in view the facts and circumstances noticed hereinbefore, no ground for interference by this Court is made out so as to direct the respondents to issue gradation certificate to the petitioner on the basis of his participation in the sport of Wushu hence, the present petition is accordingly dismissed.

February 16, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No