

234

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14505-2022

Date of decision: 03.09.2024

SUMIT

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Jagbir Malik, Advocate
for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned action of the respondents for considering the petitioner in General Category as per list of details of the marks of candidates, who participated in the scrutiny of documents (Annexure P-17) instead of considering him in General-DESM Category for selection to the post of ALM with a further prayer to direct the respondents to consider the claim of the petitioner for selection to the post of ALM under General-DESM Category and place the petitioner at appropriate place in selection list/revised result dated 06.07.2022 (Annexure P-13) in the General-DESM Category as he had secured



more marks than the last selected candidate and also to recommend the name of the petitioner for appointment to the post of ALM to the concerned department.

BRIEF FACTS OF THE CASE

2. The brief facts of the present case are that the petitioner applied for the post of Assistant Lineman (ALM) in pursuance of advertisement No.11/2019 dated 05.07.2019 (Annexure P-1) and the closing date for the purpose of submission of online application forms was initially 25.07.2019 but later on the same was extended till 03.02.2020. As per the selection criteria, written test was conducted on 14.11.2021 and vide Annexure P-9, result of the same was declared on 18.12.2021, in which the petitioner was declared as a successful candidate. As per Clause 2.4 (Note No.4) of the aforesaid advertisement, it has been mentioned that if a candidate of Ex-Servicemen is not available then dependents of Ex-Servicemen are to be considered and in case dependents of Ex-Servicemen are not available then dependents of Freedom Fighters are to be considered. The petitioner is stated to be the dependent of Ex-Serviceman and he had applied under the aforesaid category.

3. In the aforesaid advertisement, reservation was provided for different posts. The petitioner applied in category No.21 i.e. for the post of Assistant Lineman (ALM) and the following was the break-up of the posts and reservation, which is reproduced as under:-

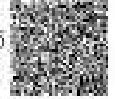
Break-up of the posts:-

Category	Total	NonESM/ESP	ESM	ESP
General	564	460	91	13
SC	261	222	26	13
BCA	209	176	26	7



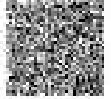
BCB	143	98	39	6
EWS	130	130	-	-
Total	1307			
PwD (Person with Disabilities)	-	Deaf and hard of hearing 52	-	-
Bifurcation of PwD		HH/PD-52		

4. The application form of the petitioner is Annexure P-4, wherein against the column of *Reservation : Dependent of Ex-Servicemen*, the petitioner has mentioned ‘Yes’ and in this way, the petitioner applied under the category of Dependent of Ex-Servicemen. At the end of the aforesaid application form, various documents were required to be attached in which the petitioner has stated at serial No.1 that he has attached Dependent of Ex-Serviceman Certificate. The said Dependent of Ex-Serviceman Certificate which was so attached by the petitioner along with the application form is also attached with the present writ petition as Annexure P-3, which has the heading of “Relationship Certificate in respect of No.1078658H Rank Ex-DFR Name Dalbir Singh of 8 CAV (Unit)” and the same has been issued by the Record Officer of the Indian Army. In this way, admittedly the petitioner applied under the category of Dependent of Ex-Servicemen as per the aforesaid application form itself along with the aforesaid Relationship Certificate (Annexure P-3). Thereafter, the process started and the petitioner appeared in the written examination, which he cleared. After the petitioner cleared the written examination, he along with other candidates was called for scrutiny of documents on different dates and the schedule of scrutiny of documents is



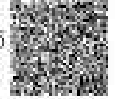
attached as Annexure P-11, wherein qua the roll number of the petitioner, the date fixed was 05.02.2022 and in this way, the petitioner was to appear for scrutiny of documents before the Scrutiny Committee on the aforesaid date. The result of the petitioner by which he cleared the written examination and was called for scrutiny of documents has been attached as Annexure P-9, wherein the aforesaid schedule is also mentioned and the candidates were directed to bring all the original documents along with them at the time of scrutiny of documents and it was also stated that if a candidate does not appear for scrutiny of documents, then no further opportunity will be given thereafter.

5. Admittedly, the petitioner appeared for scrutiny of documents for the date already fixed qua him i.e. 05.02.2022 and there is no dispute with regard to the same. However, when the petitioner appeared for scrutiny of documents, the document of Dependent of Ex-Serviceman which he had attached as Annexure P-3 was not accepted by the Scrutiny Committee because the same was not in consonance with the advertisement, even though the petitioner applied under the Dependent of Ex-Servicemen category, as per his own application form as stated above. Thereafter, the petitioner submitted the Eligibility Certificate issued by the District Sainik and Ardh. Sainik Welfare Officer, Sonipat dated 10.02.2022 (Annexure P-12) before the Scrutiny Committee of the respondent-Commission on the very next day i.e. 11.02.2022 vide diary No.1649, as per his averment made in para No.6 of the present writ petition. In the aforesaid para No.6, the petitioner has specifically averred that at the time when he appeared for scrutiny of documents on 05.02.2022, his documents were found to be in order by the Scrutiny Committee but an



objection was raised on the basis of aforesaid Relationship Certificate (Annexure P-3) to the extent that the same could not have been considered to be under the Dependent of Ex-Servicemen category as per the advertisement and he was asked by the officials of the respondent-Haryana Staff Selection Commission to submit the Dependent of Ex-Serviceman Certificate issued by the Zila Sainik Board to get the benefit of reservation under Dependent of Ex-Servicemen category and therefore, the petitioner approached the District Sainik and Ardh. Sainik Welfare Officer, Sonipat for issuance of eligibility certificate and on his request, the District Sainik and Ardh. Sainik Welfare Officer, Sonipat issued the certificate on 10.02.2022 to him vide Annexure P-12, which was submitted by the petitioner before the Scrutiny Committee of the respondent-Commission on 11.02.2022 vide diary No.1649.

6. However, when the final result was declared vide Annexure P-13, the petitioner was not considered under the category of Dependent of Ex-Servicemen because of the aforesaid deficiency of the dependent certificate which he did not attach along with the application form and without considering the aforesaid certificate dated 10.02.2022 (Annexure P-12), he was considered under the General Category, due to which he could not obtain the requisite merit and therefore, he was not selected for the aforesaid post of ALM. The last selected candidate under the Dependent of Ex-Servicemen category secured 26 marks, whereas the petitioner secured 30 marks. The petitioner secured 30 marks, although considered under the General Category, was not selected because his merit was much below than that of the last selected candidate under the General Category but he was higher in merit under the Dependent of



Ex-Servicemen category but he was not considered under the Dependent of Ex-Servicemen category because of want of the aforesaid certificate which the petitioner did not submit at the time of scrutiny of documents but submitted after about 5-6 days vide Annexure P-12.

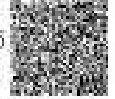
SUBMISSIONS BY LEARNED COUNSEL FOR THE PETITIONER

7. Learned counsel for the petitioner submitted that it is a case where as per the terms and conditions of the advertisement, various notes have been provided under Clause 2.4 and he referred to Note No.15 of the aforesaid Clause, which is reproduced as under:-

“15. 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 when called upon to do so by Haryana Staff Selection Commission. 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 whenever required.”

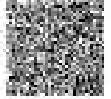
8. While referring to the aforesaid Note No.15, learned counsel for the petitioner submitted that it has been so stated therein that the Dependent of Ex-Servicemen candidates of Haryana claiming benefit must have valid eligibility certificate on the last date of submission of online application form and they will have to produce the valid Eligibility Certificate from the concerned Zila Sainik Board when called upon to do so by Haryana Staff Selection Commission and mere dependent certificate will not be entertained.

He further submitted that in this way although the petitioner has not attached



the dependent certificate along with the application form and he only attached the relationship certificate (Annexure P-3) along with the application form but when the result of the written examination was declared vide Annexure P-9, then as per the note attached with the result, it was so directed by the Haryana Staff Selection Commission that the scrutiny of documents of the candidates will be held from 01.02.2022 to 07.02.2022 and the candidates were directed to bring all the original documents, set of self-attested copies of all documents, one ID proof and copy of the downloaded application form. It was also stated that in case a candidate does not appear for scrutiny of documents then no further opportunity will be granted thereafter.

9. Learned counsel for the petitioner also submitted that in pursuance of the aforesaid Note No.15 for calling for scrutiny of documents and for bringing of all the documents, the petitioner appeared on 05.02.2022 before the Scrutiny Committee, which was the date scheduled for scrutiny of his documents and he produced all the documents before the Scrutiny Committee but so far as the document pertaining to Dependent of Ex-Serviceman is concerned, he produced the relationship certificate (Annexure P-3), which according to the Scrutiny Committee was not a valid document as per the advertisement and he was asked by the officials of the Haryana Staff Selection Commission to bring a proper valid document in this regard and immediately the petitioner applied for the aforesaid document and he got the eligibility certificate after 5 days i.e. on 10.02.2022 as issued by the District Sainik and Ardh. Sainik Welfare Officer, Sonipat vide Annexure P-12 and on the very next day i.e. on 11.02.2022, he submitted the same before the Scrutiny Committee.



He further submitted that once the petitioner submitted the aforesaid certificate before the Scrutiny Committee then the Scrutiny Committee was bound to consider the aforesaid certificate because the process was still going on and it is not a case that the Scrutiny Committee had finished the job and further process for final selection was required to be carried on but the process of scrutiny of documents carried on till 11.03.2022. He further submitted that in this regard, rather a public notice dated 08.03.2022 was also issued by the Haryana Staff Selection Commission, which is reproduced as under:-

***HARYANA STAFF SELECTION COMMISSION
Bays no. 67-70, sec-2, Panchkula-134151
(Website: www.hssc.gov.in)***

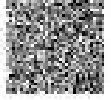
SCRUTINY OF DOCUMENTS

***Notice to the absentee candidates for Scrutiny of documents
for the post Assistant Lineman of UHBVNL, Haryana against
Advt. No. 11/2019, Cat No. 21.***

In continuation of Notice dated 18.12.2021 and 06.02.2022, vide which the Candidates were called for Scrutiny of Documents from 01.02.2022 to 07.02.2022 and absentee candidate were called for D.V on 09.02.2022 for the post of Assistant Lineman of UHBVNL, Haryana Against Advt. No. 11/2019, Cat No. 21. The Commission has now decided to give last opportunity on 11.03.2022 to candidates who remained absent for Scrutiny of Documents.

2. The candidate with directions of Hon'ble Punjab and Haryana High Court, if any, may also come for Scrutiny of Documents on 11.03.2022 in the Commission office for document verification in respect of above said posts alongwith the direction of Hon'ble High Court.

3. The candidates are advised to report at 09.00 A.M. in the Commission office, Panchkula. They are also directed to bring all



original documents, set of self attested copies of all documents, one ID Proof and copy of downloaded application form.

4. *The Notice is also available on Commission's Website i.e. www.hssc.gov.in.*

Note: -

1. *Other terms and conditions are same as mentioned in earlier Notices.*

2. ***No further chance will be given thereafter.***

Sd/-

Secretary

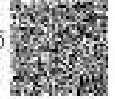
Haryana Staff Selection Commission

Panchkula

Panchkula,

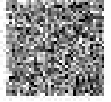
Dated: 8th March, 2022

10. Learned counsel for the petitioner further submitted that as per the aforesaid public notice, opportunity was granted to those candidates who were rather absent on the date when they were called for scrutiny of documents and the process carried on till 11.03.2022 and in this way, notwithstanding the fact that in Note No.2 attached with the result of written examination (Annexure P-9) as aforesaid, it was so stated by the Haryana Staff Selection Commission that in case a candidate does not appear for scrutiny of documents then no further opportunity will be granted thereafter, but still further opportunity was granted to those candidates who were absent but so far as the present petitioner is concerned, he was not even absent and admittedly he was present on the date which was originally scheduled qua him i.e. 05.02.2022 for scrutiny of documents, but the document which was required by the respondent-Commission in a proper format was not with the petitioner and on the advise of the officials of the respondent-Commission, he immediately applied for the



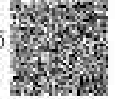
same before the District Sainik and Ardh. Sainik Welfare Officer, Sonipat and Dependent of Ex-Serviceman certificate was issued to him on 10.02.2022 (Annexure P-12) and he submitted the same before the Scrutiny Committee of the respondent-Commission on 11.02.2022 and even the last date for scrutiny of documents was 11.03.2022 and in this way, at the time when the petitioner submitted the aforesaid certificate before the Scrutiny Committee, scrutiny of documents was still going on.

11. Learned counsel for the petitioner further submitted that the petitioner has made specific averments with regard to the aforesaid position in para No.6 of the writ petition that while he appeared for scrutiny of documents he was asked by the officials of the respondent-Commission to submit a proper document, to which he applied for the same and submitted on 11.02.2022 vide diary No.1649 and the same is not denied by the respondent-Commission when the respondent-Commission filed its reply. He further submitted that in other words, in the absence of any denial of the specific averments made by the petitioner in this regard, the same are deemed to have been admitted by the respondent-Commission and therefore, once the petitioner submitted the aforesaid certificate on 11.02.2022 vide diary No.1649 on the asking of the Commission, then it was obligatory upon the respondent-Commission to have considered the same in accordance with law but the inaction of the respondent-Commission has affected the career of the petitioner because he was never considered under the Dependent of Ex-Servicemen category. He further submitted that had he been considered under the category of Dependent of Ex-Servicemen then he would have been selected on his own merits to the post



of Assistant Lineman because he secured total 30 marks, whereas the last selected candidate under the Dependent of Ex-Servicemen category had secured 26 marks.

12. Learned counsel for the petitioner referred to a judgment passed by this Court in CWP-1808-2022, titled as *Anil Kumar versus State of Haryana and others*, decided on 01.05.2024 to contend that in similar circumstances, this Court while referring to various other judgments passed by Hon'ble Supreme Court and High Courts allowed the writ petition even if the Dependent of Freedom Fighter certificate was not attached along with the application form but was issued at the time of scrutiny of documents and therefore, so far as the case of the present petitioner is concerned, the same would also be squarely covered by the aforesaid judgment passed by this Court. He further submitted that the advertisement which was the subject matter of the aforesaid writ petition i.e. *Anil Kumar's case (supra)* and the present writ petition is the same and therefore, all the conditions of the advertisement of the aforesaid writ petition i.e. *Anil Kumar's case (supra)* and the present writ petition are also same and therefore, necessary direction be issued to the respondent-Commission to consider and forward the case of the petitioner by considering him under Dependent of Ex-Servicemen category to the concerned department i.e. respondent No.2 for further appointment. He further submitted that when notice of motion was issued by this Court on 11.07.2022, it was also directed that one post in the DESM-General category, if not already filled, be kept vacant. He also submitted that now when reply has been filed by the

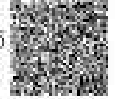


respondents, it has been stated therein that one post under the DESM-General category has been kept vacant and the same is still lying vacant.

SUBMISSIONS BY LEARNED STATE COUNSEL

13. On the other hand, learned State counsel appearing on behalf of the respondent-Haryana Staff Selection Commission submitted that the petitioner did not attach any document pertaining to Dependent of Ex-Serviceman along with the application form and as per the advertisement, at the time when application form was to be filled then documents were to be attached along with the application form and at the most the documents could be produced at the time of scrutiny of documents but the petitioner admittedly has not supplied the certificate of Dependent of Ex-Serviceman even at the time of scrutiny of documents i.e. on 05.02.2022 and after about 5-6 days the same was supplied, which therefore could not have been considered because scrutiny of documents qua him was over by the time he supplied the aforesaid document. He referred to Note No.15 of Clause 2.4 of the advertisement to contend that at the most at the time of scrutiny of documents, the eligibility certificate could have been supplied and in the absence of the same, the respondent-Commission was well within its rights to have not considered the petitioner under the Dependent of Ex-Servicemen category.

14. Learned State counsel also submitted that so far as the reliance placed by the learned counsel for the petitioner on a judgment passed by this Court in Anil Kumar's case (supra) is concerned, the same is distinguishable on facts in view of the fact that in that case although the certificate of Dependent of Freedom Fighter was not attached along with the application form



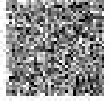
but the same was submitted by the petitioner of that case at the time of scrutiny of documents and considering the aforesaid facts and circumstances, this Court had allowed the writ petition because at least at the time of scrutiny of documents, the petitioner of that case had submitted the document but in the present case, the petitioner did not supply any such certificate of Dependent of Ex-Serviceman at the time of scrutiny of documents but as per the averments made by the petitioner in para No.6 of the writ petition, he supplied the eligibility certificate on 11.02.2022 vide diary No.1649, which was issued to him by the District Sainik and Ardh. Sainik Welfare Officer, Sonipat on 10.02.2022 vide Annexure P-12 and therefore, it cannot be said that the case of the petitioner is covered by the aforesaid judgment passed by this Court in *Anil Kumar's case (supra)*.

SUBMISSIONS BY LEARNED COUNSEL FOR RESPONDENT NO.2

15. Learned counsel for respondent No.2-Nigam submitted that so far as the vacancy position in pursuance of the order passed by this Court on 11.07.2022 is concerned, one post has already been kept vacant under DESM-General category and the same is also in existence as of today. He further submitted that the respondent-Haryana Staff Selection Commission is a recommendatory body and whichever candidate is recommended by the respondent-Haryana Staff Selection Commission, the same is considered in accordance with law for the purpose of appointment.

ANALYSIS OF SUBMISSIONS

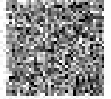
16. I have heard the learned counsels for the parties.



17. It is a case where the dispute is with regard to the eligibility certificate (Annexure P-12), which is a certificate of Dependent of Ex-Serviceman issued by the District Sainik and Ardh. Sainik Welfare Officer, Sonipat to the petitioner on 10.02.2022, which is after the cut-off date for filling up of the application form and after the scrutiny of documents qua the petitioner held on 05.02.2022.

18. Before proceeding further, the averments which have been made by the petitioner in para No.6 of the present writ petition are required to be considered and therefore, para No.6 of the present writ petition is reproduced as under:-

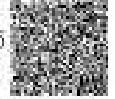
“6. That it is submitted here that the respondent commission had issued the notice to the candidates for inviting objections on answer key for the various posts of ALM against the advt No. 11/2019 category no.21 of UHBVNL. A copy of the said notice dated 16.11.2021 is enclosed herewith as annexure P/8. The petitioner has not filed any objections against the answer key. Finally, the result of the written examination for the post of ALM was declared on dated 28.12.2021 by the respondent commission without properly deciding the objections of the petitioner. The roll number of the petitioner was figured in the said list of successful candidates in the written test, therefore, he had cleared the written test. A copy of the Result dated 28.12.2021 is enclosed herewith as annexure P/9. It is submitted here that as per the said notice dated 28.12.2021, the candidates are required to appear for the document verification from 07.01.2022 onwards. However, the respondent commission had issued the notice to the candidates for online scrutiny for documents for ALM from



25.1.2022 to 28.1.2022. A copy of the said notice is enclosed herewith as annexure P/10. The petitioner has duly uploaded the documents in the prescribed format. The respondent commission had issued the schedule for the scrutiny of documents to be held from 1.2.2022 to 7.2.2022. The copies of the scheduled for scrutiny of the documents is enclosed herewith as annexure P/11. Accordingly, the petitioner had participated in the scrutiny of documents from dated 5.2.2022 and his documents were found in order and there was no deficiency of any kind and he was fully found fit and eligible for the post of ALM. **However, they have raised the objection that on the basis of Relationship certificate the petitioner could not considered under the DESM category, therefore, he was asked by the officials of the respondent commission to submit the DESM certificate issued by the Zila Sainik Board to get the benefit of reservation under DESM category. Therefore, the petitioner approached the Distt. Sainik and Ardh Sainik Welfare Officer, Sonipat to issue the DESM eligibility certificate and on the said request of the petitioner, the Distt. Sainik and Ardh Sainik Welfare Officer, Sonipat has issued the DESM eligibility certificate dated 10.2.2022 is enclosed herewith as annexure P/12. Thereafter, the petitioner had submitted the said certificate in the respondent commission on dated 11.2.2022 vide diary no. 1649 maintained by the respondent commission.**”

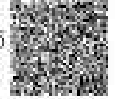
(emphasis supplied)

19. A perusal of the aforesaid would show that the petitioner has specifically averred in para No.6 of the present writ petition that the petitioner participated in the scrutiny of documents on 05.02.2022 and his documents were found to be in order. However, an objection was raised by the Scrutiny



Committee of the respondent-Commission that the Relationship Certificate, which the petitioner had attached along with the present writ petition as Annexure P-3 could not be considered under the Dependent of Ex-Servicemen category and therefore, he was asked by the officials of the respondent-Commission to submit the Dependent of Ex-Serviceman certificate issued by the Zila Sainik Board to get the benefit of reservation under the Dependent of Ex-Servicemen category and in this way, the petitioner immediately approached the District Sainik and Ardh. Sainik Welfare Officer, Sonipat for issuance of eligibility certificate, which was issued to him on 10.02.2022 vide Annexure P-12 and he submitted the same before the Scrutiny Committee of the respondent-Commission on 11.02.2022 vide diary No.1649 maintained by the respondent-Commission. However, when reply was filed by the respondent-Commission, there is no denial with regard to the aforesaid eligibility certificate. The only stand taken up by the respondent-Commission in the aforesaid reply and by the learned State counsel today is to the extent that the Relationship Certificate (Annexure P-3) which was attached by the petitioner along with the application form was not in a proper format and so far as the eligibility certificate dated 10.02.2022 (Annexure P-12) is concerned, the same was issued after the scrutiny of documents and therefore, the petitioner could not have been considered by the Scrutiny Committee and he has no right for being considered under the Dependent of Ex-Servicemen category.

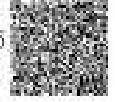
20. The law with regard to the submission of documents submitted after the cut-off date is no longer *res integra* and therefore, it will be just and proper to analyse and discuss the law on the subject. In **Ms. Pushpa versus**



Government, NCT of Delhi and others, C.M. No.17504/2008 in W.P. (C)

No.9112/2008, the Delhi High Court dealt with the aforesaid proposition of law and in that case, the petitioner applied for the post of Staff Nurse under the OBC category and for that purpose, the last date for submission of application form was 21.01.2018 and the certificate was not accepted, as no proof was furnished by the petitioner of that case to satisfy the authorities that she belongs to the said category since she did not attach the certificate because although she had applied for the certificate to the SDM for grant of OBC certificate but it was issued after the cut-off date and therefore, the aforesaid petition of aforesaid **Ms. Pushpa's case (supra)** was allowed by the Delhi High Court on the ground that the petitioner therein was not at fault.

21. In **Dolly Chhanda versus Chairman JEE, 2005 (9) SCC 779**, Hon'ble Supreme Court while discussing the case of a girl, who was a daughter of an Ex-Serviceman and was discharged from Armed Forces on the ground of disability also discussed the aforesaid issue as to what is the effect of filing the certificate after the cutoff date. In that case, during the course of scrutiny of papers, it was revealed that the certificate pertained to "Disabled/killed in war/hostilities" and therefore, was not found to be eligible, whereas, it ought to have been under the ground of "Permanently Disabled" and thereafter, a fresh certificate was obtained by the petitioner of that case and relief was granted to her. Hon'ble Supreme Court while dealing with the principle of law observed that it is a general rule that when a person applies for any post, he/she must possess the eligibility qualification on the last date fixed for such purpose, but at the same time depending upon the facts and circumstances of each and every

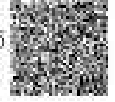


case, there can also be relaxation in the manner of submission of proof and it will not be proper to apply any rigid principle as it pertains to the domain of procedure and any infraction of any rule relating to the submission of the proof need not necessarily result in rejection of the candidature. In other words, it would mean that there can be no straightjacket formula for rejecting a candidature only on the aforesaid reason. Paras No.7 and 9 of the aforesaid judgment are reproduced as under:-

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or mark-sheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.

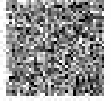
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9. The appellant undoubtedly belonged to reserved MI category. She comes from a very humble background, her father was only a Naik in the armed forces. He may not have



noticed the mistake which had been committed by the Zilla Sainik Board while issuing the first certificate dated 29.6.2003. But it does not mean that the appellant should be denied her due when she produced a correct certificate at the stage of second counselling. Those who secured rank lower than the appellant have already been admitted. The view taken by the authorities in denying admission to the appellant is wholly unjust and illegal.”

22. In **Haryana Staff Selection Commission versus Subhash Chand and others, LPA No.1199 of 2019**, a similar subject matter came up for hearing before a Division Bench of this Court in LPA, wherein the candidature was also rejected on the ground that the condition was that the certificate should have been issued prior to the last date of submission of online application form. The matter was pertaining to seeking reservation in EBPGC category and the certificate was to be issued by the Welfare of Scheduled Castes and Backward Classes Department, which was issued after the cut-off date. It was held by a Division Bench of this Court that it is important to see that while eligibility i.e. possessing education qualification should be possessed by the cut-off date for claiming benefit of reservation, proof of eligibility to claim such reservation need not to be submitted by the cut-off date. Even if proof of claim of eligibility for reservation is produced beyond the cut-off date, the candidate can be considered for the grant of the said benefit and cannot be denied relief. A Division Bench of this Court in this regard also referred to judgments of Supreme Court in **Ram Kumar Gijroya versus Delhi Subordinate Services Selection Board and another, 2016 (4) SCC 754** and **Charles K. Skaria and others versus Dr. C. Mathew and others, 1980 (2) SCC 752** and also referred to

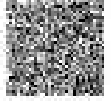


the aforesaid judgment of Hon'ble Supreme Court in **Dolly Chhanda's case (supra)**. The relevant portion of the judgment passed by a Division Bench of this Court in LPA is reproduced as under:-

xxx-xxx-xxx-xxx

“Thus the important thing to be seen is that while eligibility i.e possessing education qualification should be possessed by the cut off date, for claiming benefit of reservation, proof of eligibility to claim such reservation need not be submitted by cut off date. Even if proof of claim of eligibility for reservation is produced beyond cut off date, the candidate can be considered for grant of the said benefit and cannot be denied relief.

*In **Ram Kumar Gijroya's case (supra)**, the appellant had sought appointment to the post of Staff Nurse under the OBC category, but the said certificate was not submitted with the application and submitted after the last date mentioned in the advertisement. The appellant was therefore not selected on that ground, but the Supreme Court held that the candidature of those candidates, who belonged to reserved categories, could not be rejected simply on account of late submission of caste certificate. The Supreme Court held that the purpose of certificate is to enable the authorities to believe in the assertion of the candidate that he belongs to a particular category and act thereon by giving the benefit to such candidate for his belonging to the said category. It was not as if the petitioners therein did not belong to the reserved category prior to the cut off date or that they acquire the status of belonging to the said category only on the date of issuance of the certificate. It held that necessitating upon a certificate to be issued prior to the cut*

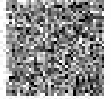


off date would be clearly arbitrary and it has no rational objective sought to be achieved.

*In **Charles K. Skaria and others Vs. Dr. C. Mathew and others**, the Supreme Court held that the candidates who got admission even though they had not attached the certificate of having passed the diploma alongwith their applications, could not have their admission to a Post Graduate cancelled provided they had in fact passed the diploma before the date fixed, but had submitted the diploma with delay. It observed that the important question is whether or not the candidate secured a diploma before the final date of application for admission to the degree course and if he did have the diploma some relaxation in producing evidence of the diploma can be granted. It held that the emphasis should be on the diploma and the proof thereof subserves the factum of possession of diploma and is not an independent factor. It held that what is essential is the possession of the diploma before the given date and what is ancillary is the safe mode of proof of the qualification. To make mandatory, the date of acquiring the qualification before the last date for application make sense. But if it is shown that the qualification has been acquired before the relevant date, to invalidate the merit factor because proof was adduced a few days later, would not be proper.”*

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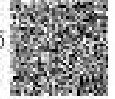
23. The aforesaid judgment passed by a Division Bench of this Court was later on assailed by the respondent-Haryana Staff Selection Commission by filing a Civil Appeal before Hon’ble Supreme Court and the same was dismissed on 31.01.2024.



24. In **Ram Kumar Gijroya's case (supra)**, Hon'ble Supreme Court also dealt with this issue as to whether a candidate who appears in an examination under the OBC category and submits the certificate after the last date mentioned in the advertisement is eligible for selection to the post under the OBC category or not. It also referred to a judgment of the Delhi High Court in **Ms. Pushpa's case (supra)** and another judgment in **Tej Pal Singh & others versus Govt. of NCT of Delhi, ILR 2001 Delhi 298**. It was so held by Hon'ble Supreme Court that the decision rendered in the case of **Ms. Pushpa's case (supra)** is in conformity with the position of law laid down by Hon'ble Supreme Court.

25. After the aforesaid judgment in the case of **Ram Kumar Gijroya's case (supra)**, there was another matter which came up for hearing before Hon'ble Supreme Court in the case of **Karn Singh Yadav versus Government of NCT, Delhi in SLP No.14948 of 2016** arising out of the aforesaid judgment passed by Delhi High Court. The aforesaid matter came up before Bench of two Hon'ble Judges of Hon'ble Supreme Court, wherein reference was also made to **Ram Kumar Gijroya's case (supra)** but Hon'ble Supreme Court had referred the matter for consideration to a Larger Bench. The aforesaid three Judges Bench of Hon'ble Supreme Court in the aforesaid case thereafter observed that in an identical situation in **Ram Kumar Gijroya's case (supra)**, Hon'ble Supreme Court has ruled in favour of the concerned candidate and the present case is thus completely covered by the aforesaid case.

26. The aforesaid order passed by three Judges Bench of Hon'ble Supreme Court dated 28.09.2022 is reproduced as under:-



“Leave granted.

This appeal challenges the judgment and order dated 07.01.2023 passed by the High Court of Delhi in Writ Petition (C) No.55 of 2013.

We are presently concerned with the process of selection issued vide advertisement dated 30.08.2007 for the posts of “A” Grade Staff Nurse, Municipal Corporation of Delhi. The appellant had offered his candidature as a person belonging to Other Backward Class. His candidature was, however, rejected by the Authorities inter alia on the ground that the documents certifying him to be belonging to that community were not filed before the cut-off date.

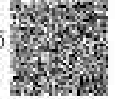
The challenge raised by the appellant to such rejection did not meet with any success and the High Court by the order presently under challenge rejected the writ petition in limine.

*It must be stated here that an identical fact situation came up for consideration before this Court in **Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Another, (2016) 4 SCC 754**, wherein this Court ruled in favour of the concerned candidate. The instant matter is thus completely covered by said decision.*

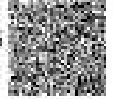
However, it must be noted here that as a result of cancellation of the candidature, the appellant was never appointed to the post in question and at this length in time, it will not be possible to grant any substantial relief to the appellant.

Therefore, the appeal is disposed of with no order as to costs.”

27. Learned counsel for the petitioner has also drawn attention of this Court to the extension of date of scrutiny of documents. It is an admitted

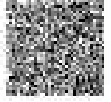


position that vide Annexure P-11, a schedule was made with regard to different candidates for fixing of date of scrutiny of documents for the post of Assistant Lineman (ALM) and 05.02.2022 was the date assigned to the petitioner when he admittedly appeared for scrutiny of documents. Since the relationship certificate (Annexure P-3) of the petitioner was not in order, as per the averment made by the petitioner in para No.6 of the present writ petition, which goes unrebutted in the reply filed by the respondent-Commission, the petitioner on the asking of Scrutiny Committee submitted another eligibility certificate before the Scrutiny Committee on 11.02.2022, which was a valid certificate issued by the District Sainik and Ardh. Sainik Welfare Officer, Sonipat on 10.02.2022 (Annexure P-12). The process of scrutiny of documents was still going on till 11.03.2022. A plea has been taken by the learned State counsel that once the petitioner appeared for scrutiny of documents then qua him the process was over and therefore, on a subsequent date he could not have supplied any such document. However, the learned counsel for the petitioner has argued that those candidates who could not even appear before the Scrutiny Committee for the scrutiny of documents and were absent on the assigned dates were granted extension and this process continued till 11.03.2022 but so far as the present petitioner is concerned, admittedly he was rather present on the date scheduled qua him i.e. 05.02.2022 and he submitted the eligibility certificate (Annexure P-12) on 11.02.2022 vide diary No.1649, which also goes unrebutted, which was even much before the extended date i.e. 11.03.2022, then it was the duty of the respondent-Commission to have considered his eligibility certificate for the purpose of considering him under the category of Dependent of Ex-Servicemen.



28. I find force in the argument raised by the learned counsel for the petitioner that on the one hand, the respondent-Commission has granted the benefit of extension of time for the purpose of scrutiny of documents to those candidates who remained totally absent and on the other hand, it is taking a stand that so far as the petitioner is concerned, although he appeared on the aforesaid scheduled date but as he has given the aforesaid certificate (Annexure P-12) after about 5-6 days, the same could not have been accepted. The aforesaid contradictory stand taken by the respondent-Commission would not be sustainable. The petitioner would be at much better footing as compared to those who remained totally absent on the assigned date of scrutiny of documents.

29. Furthermore, it has been so held by Hon'ble Supreme Court and also by this Court in Anil Kumar's case (supra) that the fact that the document on which reservation is being claimed if not attached along with the application form cannot be put in a straightjacket formula and it is only a domain of procedure and any infraction of the same would not be automatically fatal. So far as the aforesaid judgment of Anil Kumar's case (supra) is concerned, there is a distinction in the factual position because in that case the document of reservation was provided by the petitioner of that case at the time of scrutiny of documents and therefore, this Court had allowed the writ petition. However, in the present case the petitioner supplied the eligibility certificate (Annexure P-12) on 11.02.2022 and during the process when scrutiny of documents was still taking place, which continued till 11.03.2022. The extension of time was granted even to the absentee candidates and therefore, on this ground that the



petitioner submitted the aforesaid eligibility certificate after about 5-6 days of the scrutiny of documents i.e. on 11.02.2022 would not be fatal to the petitioner. Above all, even when specific averments were made by the petitioner in para No.6 of the present writ petition as reproduced above that he has supplied eligibility certificate on 11.02.2022 vide diary No.1649, the same goes unrebutted by the respondents and therefore, it can be safely inferred that the petitioner supplied the valid document on 11.02.2022 before the Scrutiny Committee of the respondent-Commission when the process of scrutiny of documents was still going on.

30. In view of the aforesaid facts and circumstances of the present case, the present writ petition is allowed. The impugned order (Annexure P-17) to the extent that the petitioner has been considered under General Category is set aside. Respondent-Haryana Staff Selection Commission is directed to consider the case of the petitioner by taking into consideration the eligibility certificate dated 10.02.2022 (Annexure P-12) produced by the petitioner pertaining to Dependent of Ex-Serviceman by considering him in the category of Dependent of Ex-Servicemen and thereafter, to proceed further. In case the petitioner is found to be in merit then the respondent-Haryana Staff Selection Commission shall send the recommendation to the concerned authority in accordance with law, who shall thereon proceed expeditiously. In case of appointment of the petitioner, he shall be entitled to all consequential benefits of seniority, pay fixation etc. with effect from the date when similarly situated persons were appointed. However, the petitioner shall not be entitled for salary of the aforesaid period since he did not work on the post.



31. The aforesaid exercise shall be completed within a period of three months from today.
32. There shall be no order as to costs.

03.09.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No