



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-18862-2019 (O&M)
Date of Decision:17.07.2024

Udham Singh

.....Petitioner

Versus

Haryana State Agriculture Marketing Board and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Laj Pat Rai Sharma Advocate for the petitioner.

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

Mr. Divyansh Shukla, Advocate for
Mr. Hitesh Pandit, Advocate for respondent No.1.

JASGURPREET SINGH PURI J.(Oral)

1. The present 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 final result for the post of Mandi Supervisor-cum-Fee Collector dated 15.06.2019 (Annexure P-8) whereby the last selected candidate has secured 101 marks and petitioner has secured more marks than the last selected candidate but aforesaid candidate has been selected by ignoring the candidature of the petitioner.

2. Brief facts of the present case are that the petitioner had applied for appointment to the post of Mandi Supervisor-cum-Fee Collector in Category No.17 in pursuance of the advertisement issued by respondent No.2-Haryana Staff Selection Commission, Panchkula

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petitioner applied under the reserved category of ESM General and the total number of posts in ESM-General category was 9. There was an eligibility/qualification condition mentioned in the aforesaid advertisement itself wherein it has been so provided that the candidate must be graduate with 55% marks from a recognized university with six months certificate in computer from a recognized institution. Category No.17 of the aforesaid advertisement is reproduced as under:-

**“Cat. No.17 126 posts of Mandi Supervisor-cum-Fee Collector
(Re- Advertised).**

(GEN=34, SC=20, BCA=16, BCB=10, SBC-12,
EBPG=13, ESM-Gen=9, ESM SC=3, ESM-BCA=3, ESM BCB=3, OSP
Gen=1, OSP SC=1, OSP BCA=1) (PHC HH=1).

E.Q.

*i) Graduation with 55% marks from a recognized
University with six months certificate in computer from a recognized
Institution;
and*

*ii) Hindi/Sanskrit upto Matric Standard or higher
education.*

Age: 17-42

Pay Scale: 9300-34800+3600 GP”

3. Earlier the petitioner could not appear for scrutiny of the documents and therefore the petitioner filed a writ petition bearing CWP No.22647 of 2018 before this Court and he was allowed to appear for interview provisionally. Thereafter in pursuance of the directions passed



by this Court on 06.09.2018 in the aforesaid writ petition, the documents of the petitioner were scrutinized and he was provisionally interviewed and his result was kept in sealed cover. Thereafter this Court vide order dated 15.07.2019 had directed that the result of the petitioner be produced in the sealed cover before this Court and thereafter the same was produced on 14.10.2019 and after opening the sealed cover it was found that the petitioner had obtained 92 marks in written examination and 20 marks in the interview and total comes out to be 112 marks whereas the cut off marks for the ESM-General Category were 101 and the respondent-State was directed to file an affidavit as to why the candidature of the petitioner was not considered.

4. The present writ petition has been filed on the ground that the petitioner has been wrongly disqualified although he has secured much higher marks than the cut off marks under ESM General Category.

5. Learned counsel for the petitioner submitted that the only reason given for non-suiting the petitioner and disqualifying him was that he did not fulfill the requisite qualification of having six months computer certificate from a recognized institution as so mentioned in the advertisement. Learned counsel submitted that in fact the certificate of computer course has been attached with the present petition vide Annexure P-1 which shows that the petitioner has done a part time Computer course of 167 hours from C-DAC. Learned counsel further asserted that rather a bunch of petitions were filed before this Court seeking similar relief and the same were disposed of by this Court on the basis of the statement made by learned Advocate General wherein he had placed on record minutes of the meeting of respondent-Commission

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which was held on 07.09.2018 whereby decision has been taken with regard to the institutes which will be considered for computer courses for appointment to the post of Mandi Supervisor-cum-Fee Collector. He further submitted that at Sr. No.2 it has been so mentioned that 'Certificate Course (144 hours) of C-DAC. He submitted that the petitioner falls within the category of aforesaid Sr. No.2 and rather the number of hours he spent in doing computer course is far more than the aforesaid categorization and therefore he could not have been disqualified only because of the aforesaid reason and rather his case is squarely covered by the aforesaid judgment which has been attached alongwith the present petition as Annexure P-7 .

6. On the other hand, Mr. Gaurav Jindal, Addl. A.G. Haryana learned State counsel submitted that as per the reply filed by the respondents, the petitioner did not fulfill the 06 months criteria because he has done his computer course of duration of 167 hours. He further submitted that it is mentioned in the computer certificate of the petitioner vide Annexure P-1 that he has done a part time computer course not full time and as such he was considered to be ineligible

7. I have heard learned counsels for the parties.

8. The short controversy involved in the present case is as to whether the petitioner would be qualified for being considered for the aforesaid post especially in view of the fact that his marks are much higher than the cut off marks of the last selected candidate in the ESM General category. Vide Annexure P-7 dated 14.11.2018 number of cases pertaining to the same selection process and same post were decided on



the statement made by learned Advocate General Haryana. The aforesaid judgment vide Annexure (P-7) is reproduced as under:-

“ This order shall dispose of the above mentioned writ petitions, as common questions of facts and law are involved in them.

Learned Advocate General, Haryana, has placed on record the minutes of meeting of the Haryana Staff Selection Commission, which was held on 07.09.2018, whereby a decision has been taken with regard to the Institutes which will be considered for Computer Courses for the posts of Mandi Supervisor-cum-Fee Collector. The details of the Institutes are given as under:-

01. *One year Diploma for Computer Operator and Programming Assistant, Desk Top Publishing Operator, Computer Hardware and Network Maintenance and six month Diploma of Data Entry Operator issued by Skill Development and Industrial Training Department.*
02. *Certificate Course (144 hours) of C-DAC.*
03. *Certificate Course of HKCL.*
04. *Certificate Course of HARTRON*
05. *All Engineering Degree/Bachelor Degree/Master Degree (different nomenclature) in Computer/Computer Engineering/Computer Science/Information Technology/Computer Application e.g. B.Tech/BE/B.Sc. Engg./BCA/B.SC./Masters in Computer/Computer Science/Information Technology/Computer Application recognized for AICTE/UGC.*
06. *HARTRON Diploma in Financial Accounting with HARTRON Skill Centre*
07. *Diploma/Computer Course from District Council for Child Welfare.*
08. *Diploma/Computer Course from Red Cross Society.*
09. *Diploma/Computer Course from National Institute of Skill Development (NISD) approved from MHRD/Any State Government.*
10. *Diploma/Computer Course from District Rural Development Agency (DRDA).*
11. *Diploma/Computer Course from NIELIT (Ministry of IT, Govt. of India).*
12. *Diploma/Computer Course from any wing of Indian Force (Army/Air Force/Navy).*
13. *Diploma/Computer Course from ET&T Corporation Ltd.*

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14. *Computer Diploma issued by a College affiliated/recognized to University (framed under State Act/Central Act).*
15. *PGDCA issued by University.*
16. *Three years Diploma in Computer/IT from Polytechnic recognized by Technical Education Department.*

Learned State counsel further submits that final results will be declared within one week from the receipt of certified copy of this order.

In view of the above, all the above mentioned writ petitions are disposed of and all the petitioners, who have done their Computer Course from these Institutes, will be considered eligible.”

9. A perusal of the aforesaid would show that conscious decision was taken by the Haryana Staff Selection Commission on 07.09.2018 and a list of institutes was also given. A perusal of Sr. No.2 would show that it includes ‘Certificate Course (144 hours) of C-DAC’ and a perusal of Annexure P-1 would show that the present petitioner has done computer course of duration of 167 hours from the authorized training centre of C-DAC. An argument has been raised by learned State counsel that the certificate of the petitioner vide Annexure P-1 states that petitioner has done a part time course of 167 hours whereas he ought to have done full time computer course. A perusal of the aforesaid decision taken by the respondent-Commission which has been reproduced in the aforesaid judgment at Annexure P-7 would show that there is nothing to suggest as to what would be the categorization for the certificate but at Sr. No.2 as aforementioned only states that “Certificate Course (144 hours) of C-DAC” and no further specification has been made. Therefore, at this stage such kind of argument raised by learned State counsel is misconceived and unsustainable and no distinction can be brought by making a further classification on this ground alone and petitioner cannot



that detailed description of the certificate course from C-DAC had been given in the list as aforesaid then the situation would have been different but now this Court is of the considered view that such kind of distinction cannot be made out and right of the petitioner cannot be jeopardized only due to the aforesaid reason because it appears that the aforesaid reason is hypothetical. The argument raised by the learned State counsel is outrightly rejected.

10. A perusal of the reply which has been filed by respondent-Commission would show that same has been filed on 02.12.2019 whereas the aforesaid bunch of writ petitions were decided on 14.11.2018 vide Annexure P-7 and therefore the reply in the present case has been filed after one year by the Secretary of the Haryana Staff Selection Commission, without even advertng to the aforesaid judgment passed by this Court and by taking only one plea that the petitioner has not done six months computer course in accordance with the advertisement. A further perusal of the aforesaid reply would show that an objection has been taken in para No.2 that the present petitioner is not entitled to invoke the extra ordinary writ jurisdiction of this Court under Articles 226/227 of the Constitution of India as no fundamental right of the petitioner has been infringed. After concealing the judgment of this Court, such kind of frivolous objections which are taken by the respondent-Commission are highly deprecated. Not only this in para No.3 of the reply it has been so stated by the Secretary of the Commission that the petitioner applied under the SC Category which is totally incorrect as the petitioner had applied under the ESM-General Category and his application form is already annexed at page No.40 (Annexure P-3) alongwith the present writ



petition which shows that he applied in Ex-Servicemen Category. This Court is taking a lenient view for passing any order against the concerned Secretary who has filed the reply considering the fact that he has already retired. However, at the same time, this Court directs the Haryana Staff Selection Commission to be careful in future while filing a reply in this Court and to ensure that nothing material is concealed.

11. In view of the aforesaid facts and circumstances, this Court is of the view that the case of the petitioner is squarely covered by the judgment of this Court vide Annexure P-7 and therefore the present petition is allowed. This Court has raised a query to learned counsel appearing on behalf of the respondent No.1-Board that as to whether any post of Mandi Supervisor-cum-Fee Collector is vacant or not to which he could not give any answer. It is, therefore, directed that the respondent-Commission shall forthwith process the case of the petitioner further by treating him to be eligible in consonance with the judgment at Annexure P-7 and thereafter forward the same to the concerned department who shall thereafter on the basis of any vacancy available for the post of Mandi Supervisor-cum-Fee Collector, grant appointment to the petitioner with effect from date similarly situated persons joined with all consequential benefits except arrears and salary since he did not work for that period.

12. In case there is no vacancy available then respondent-Board shall create a supernumerary post for the petitioner because there was no fault on the part of the petitioner in this regard.

13. Considering the aforesaid affidavit which has been filed by respondent-Commission, the petitioner shall also be entitled for costs

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which are assessed as Rs.20,000/- which shall be paid by the respondent-Commission to the petitioner within a period of two months from today.

(JASGURPREET SINGH PURI)
JUDGE

17.07.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No