



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

225

CWP-19094-2018

Date of decision : 24.07.2024

Dilpreet Singh

.....Petitioner

V/S

PEPSU Road Transport Corporation, Patiala and others ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Vikas Kumar Rana, Advocate for
Mr. Sukhandeep Singh, Advocate for the petitioner.

Mr. Anupam Singla, Advocate for respondents No.1, 2 & 4.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India claiming the following reliefs :-

- (i) Issue a writ in the nature of mandamus directing respondents No.1 & 2 to resume the recruitment process for the post of General Manager and consider the petitioner for the recruitment to the said post, in view of the merit list (Annexure P-2);
- (ii) Issue a writ in the nature of certiorari quashing the impugned order dated 20.03.2018 (Annexure P-4) passed by respondent No.2, whereby 02 posts of Traffic Manager has been fulfilled without granting opportunity to the other shortlisted candidates as per merit list (Annexure P-3); and
- (iii) Issue a writ in the nature of mandamus directing the respondents No.1 & 2 to consider the petitioner for the recruitment to the post of Traffic Manager in view of the merit list (Annexure P-3).

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2. Brief facts of the case, as have been pleaded in the present petition, are that respondent No.1-PEPSU Road Transport Corporation, Patiala issued an advertisement inviting online applications during the period from 26.09.2017 to 17.10.2017 from eligible candidates for various posts including 04 posts of General Manager and 03 posts of Traffic Manager. The petitioner, being aspirant, had applied for both these posts. Thereafter, written test for both the posts was held on 25.11.2017 at Thapar University of Engineering and Technology, Patiala and as per the result of the written test for the posts of General Manager and Traffic Manager, the petitioner has secured 39 marks and 38.75 marks, respectively, and his name was shortlisted for further rounds of recruitment process such as verification of documents etc. for the said posts which was done on 22.12.2017 at Thapar University of Engineering and Technology, Patiala. However, in the meanwhile, the details of the recruitment process for the posts of General Manager and Traffic Manager were removed from the concerned website. The petitioner contacted the officials of the Corporation at Patiala and he was informed that recruitment for the said posts has been cancelled as the Corporation has decided to amend the qualification/experience criteria for the said posts. Thereafter, the petitioner came to know that vide order dated 20.03.2018, 02 candidates namely Raman Sharma and Amarveer Singh Tivana have been shortlisted for interview for the post of Traffic Manager to be held on 21.03.2018. Thereafter, the petitioner submitted representation dated 08.07.2018 to the Corporation, requesting it to look into the issues highlighted in the said representation. However, the said representation has been replied vide

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letter dated 24.07.2018, wherein it has been stated that the experience gained by the petitioner was not of supervisory capacity and for that reason his case has not been considered for the post of Traffic Manager. Aggrieved against the said action, the instant petition has been filed.

3. On issuance of notice of motion, written statement on behalf of the respondents has been filed, wherein it has been stated as under :-

“xx xx xx xx xx

3. *That the respondent corporation had received 59 applications for the post of General Manager, 37 for Traffic Manager and 19 for Works Manager. The written examination was conducted on 25/11/2017. As per the advertisement 25% minimum marks were required to qualify the written examination. Accordingly, 17 candidates have cleared the examination for the post of General Manager and 15 candidates cleared for the post of Traffic Manager. However, no candidate qualified the written test for the post of Works Manager. It is pertinent to mention here that the petitioner had secured 39 marks in the written test for the post of General Manager and 38.75 marks for Traffic Manager.*

4. *That on 19/12/2017, a committee comprising of the following officers was constituted to check/verify the documents of the candidates who have qualified the written examination:-*

- (i) *Sh. Jatinderpal Singh, Executive Engineer (Civil)*
- (ii) *Sh. Ravinder Singh Aulakh, General Manager (Operation)*
- (iii) *Sh. Prem Lal, Deputy Controller (F&A)*
- (iv) *One Representative of Thapar University.*

5. *That in terms of the notice Annexure P-2, the documents of the candidates, who have cleared the written examination, were checked on 22/12/2017. During the aforesaid process, out of 17 candidates for the post of General Manager, 3 candidates were absent and therefore, only 14 candidates were present for getting their documents/certificates checked/verified. Similarly, out of 15 candidates, one candidate was absent (whose name is*

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figured at Serial No.2 in the merit list) for the post of Traffic Manager and therefore, 14 candidates were appeared for getting their documents/certificates verified/checked for the post of Traffic Manager.

6. *That upon verification of the documents it was found that only 2 candidates, mentioned at Serial No.1 and 3 in the merit list (Annexure P-2), fulfills the requisite qualification for the post of Traffic Manager. The remaining candidates including the petitioner were not eligible to be appointed for the post of Traffic Manager. It is further submitted that the petitioner is having the experience of Auction Recorder in Market Committee which is of Clerical nature, whereas, as per the advertisement the experience of five-year in managerial capacity in Government/Semi-Government or a Public Limited Company was required. Therefore, both the candidates mentioned at Serial No.1 and 3 in the merit list were called for interview for the post of Traffic Manager vide letter dated 20.03.2018 (Annexure P-4) and were appointed as such. Hence, the petitioner has no claim to the post of Traffic Manager.*

7. *That so far as the post of General Manager is concerned, in this regard it is submitted that during the selection process, the aforesaid committee had pointed out a glaring defect in the advertisement issued for the post of General Manager. It has been pointed out by the committee that the post of General Manager is a promotional post from the cadre of Traffic Manager. Since the experience of five-year in managerial/supervisory capacity in Government/Semi-Government or Public Limited Company is required for the post of Traffic Manager, therefore, for the higher post of General Manager the same experience or higher experience would have been required, whereas, for the post of General Manager, it has been mentioned in the advertisement that experience for a period of 5 years in Government/Semi-Government or Public Limited Company is required. Therefore, on coming to know the glaring defect in the advertisement, the respondent corporation has decided to stop the recruitment process for the post of General Manager and has also decided to refund the amount deposited by the candidates. Accordingly, a public notice in this regard will be issued by the respondent corporation in a short span of time after getting*

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the approval from the Board of Directors of the respondent corporation.

xx xx xx xx”

4. No replication to the averments made in the written statement has been filed by the petitioner.

5. Learned counsel for the petitioner has argued that the action of the respondent-Corporation for not appointing the petitioner for the post of Traffic Manager and appointing two other candidates namely Sh. Raman Sharma and Sh. Amarveer Singh Tivana, is totally illegal and arbitrary as the petitioner was fully eligible and had secured 38.75 marks in the written examination.

6. Per contra, learned counsel for the respondents-Corporation submits that firstly, the present petition is liable to be dismissed on the ground of non-joinder of necessary parties. Sh. Raman Sharma and Sh. Amarveer Singh Tivana, who have been appointed to the post of Traffic Manager, have not been impleaded as party. He further submits that the petitioner was having experience of Auction Recorder in Market Committee which is of clerical nature, whereas as per the advertisement, the experience of 05 years in managerial capacity in Government/Semi-Government or Public Limited Company was required for the post of Traffic Manager. Since Sh. Raman Sharma and Sh. Amarveer Singh Tivana were found fully eligible and suitable, therefore, they were selected and appointed. With regard to the post of General Manager, he submits that the said post has been withdrawn due to glaring defect which had crept in the advertisement.

7. I have heard learned counsel for the parties and have



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perused the record with their able assistance.

8. As far as the claim of the petitioner for selection/appointment to the post of Traffic Manager is concerned, it is the stand of the respondent-Corporation that the petitioner was not eligible as he lacked required experience for the said post. The required experience for the said post is 05 years in managerial capacity in Government/Semi Government or Public Limited Company and whereas, the petitioner had an experience on the post of Auction Recorder in Market Committee, which is of clerical nature. Only 02 candidate mentioned at Sr. No.1 and 3 in the merit list namely, Sh. Raman Sharma and Sh. Amarveer Singh Tivana fulfills the requisite eligibility for the said post and were selected and appointed. Once the petitioner is not eligible for the post of Traffic Manager, neither he can seek selection/appointment to the said post nor he can challenge the selection/appointment of the candidates, who have been appointed on the said post. It is a well settled proposition of law that an ineligible/unsuccessful person cannot question the selection/appointment of the selected/appointed candidates. Reference can be made to the judgment of the Hon'ble Supreme Court in ***Sadananda Halo Vs. Momtaz Ali Sheikh : (2008) 4 SCC 619*** and of this Court in ***Pritpal Singh versus State of Punjab : 2018 (3) SCT 171***.

9. So far as the post of General Manager is concerned, it is the stand of the respondent-Corporation that during the selection process, a Committee of 04 Members was constituted to check/verify the documents of the candidates, who have qualified the written test. The said Committee had pointed out a glaring defect in the advertisement

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issued for the post of General Manager that the post of General Manager is a promotional post from the cadre of Traffic Manager and since the experience of 05 years in managerial/supervisory capacity in Government/Semi Government or Public Limited Company is required for the post of Traffic Manager, therefore, for the higher post of General Manager at least the same experience or higher experience in managerial capacity would have been required and whereas, for the post of General Manager in the advertisement, experience of 05 years in Government/Semi Government or Public Limited Company was required. Consequently, the respondent-Corporation decided to stop the recruitment process for the said post and refunded the amount deposited by the candidates and accordingly, public notice in this regard will be issued in a short span of time after getting the approval from the Board of Directors of the Corporation.

9. Further, the petitioner has not impleaded the selected/appointed candidates namely Sh. Raman Sharma and Sh. Amarveer Singh Tivana as parties in the present writ petition. The final outcome of the present petition would affect their rights. It is settled proposition of law that no one can be condemned unheard and no adverse order can be passed against a party without giving an opportunity of being heard.

10. In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

24.07.2024*kothiyal***(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No