



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CWP-22392-2018 (O&M)
Decided on :23.05.2024

RAKESH KUMAR

. .petitioner

Versus

STATE OF HARYANA AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Ms. Anju Arora, Advocate and
Ms. Manpreet, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that his claim for appointment to the post of Heavy Vehicle Driver in pursuance to the advertisement No. 4/2017 has wrongly been rejected hence, the respondents be directed to appoint the petitioner on the post in question, according to his merit along with all consequential benefits.
2. Certain facts needs to be mentioned for correct appreciations of the issue in hand.
3. Haryana Staff Selection Commission issued an advertisement No. 04/2017 wherein various posts including 2038 posts of Heavy Vehicle Driver were advertised. The petitioner applied and competed for the post in question in the reserved category of BC-A. The petitioner appeared in the written examination which was held on 06.08.2017 and cleared the same. Thereafter, as per the selection process envisaged, the selected candidates including the petitioner were called for scrutiny of the document cum-driving proficiency test. The documents of the petitioner were scrutinized and he was found eligible and thereafter, he was called for the driving proficiency test on 06.12.2017. As per the averments made in the petition,



when the petitioner competed in the said driving proficiency test, he was declared passed having cleared the said test and the petitioner also cited the performa about clearing of the said driving proficiency test by him. Thereafter, as per the allegations of the petitioner, the petitioner was declared failed in the said driving proficiency test by the respondents.

4. As large number of candidates including the petitioner were declared ineligible for not clearing the driving proficiency test, they raised a grievance before this Court in CWP No. 400 of 2018 and other connected cases wherein, direction was issued that in case, any candidate has a grievance with regard to declaring him fail in the driving proficiency test, they can deposit a sum of Rs. 5000/- and see their video in presence of a High Level Committee which has been formed to go through the video clipping of the driving proficiency test and the recommendations of the said committee will be adhered to.

5. As the petitioner was also aggrieved against the said declaration that he failed in the said driving proficiency test, the petitioner also deposited a sum Rs.5000/-, so that the high level committee could view the video of his driving proficiency test and make the recommendations. The high level Committee which consisted of the Secretary, Staff Selection Commission, Panchkula, Deputy Transport Controller TR-Haryana as well as Deputy Transport Controller TR-II Haryana, viewed the video clipping of the driving proficiency test of the petitioner and made a recommendation that “no fault qua the petitioner has been noticed in the video clipping during the Dug test of the petitioner. Report of the concerned General Manager was directed to be obtained for verification”. Thereafter, the petitioner was again declared ineligible for the post in question being failed in the dug test on the basis of the report which was submitted by the General Manager, Haryana Roadways



Karnal, which action of the respondents is challenged in the present petition.

6. Learned counsel for the petitioner argues that once, on deposit of Rs. 5000/- the video clipping of the driving proficiency test was examined by a high level committee and it was mentioned in the report that “ no fault has been noticed in the video clipping during the dug test”, the same has to be adhered to however, the said report has been superseded by a committee report of General Manager, Haryana Roadways, Karnal declaring the petitioner as failed in the driving proficiency test hence the petitioner is liable to be treated eligible for all intents and purposes qua the post of Heavy Vehicle Driver and he be given appointment as per the merit obtained by him in the written examination.

7. Learned counsel for the respondents submits that though, as per the report of the high level Committee, no fault was noticed during the video clipping of the dug test, but it was mentioned that the report of concerned General Manager should also be obtained. Hence, the concerned General Manager has mentioned that the petitioner has failed in the driving proficiency test, hence, the petitioner has rightly been treated as ineligible for the post in question having failed in the said driving proficiency test.

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

9. The only question which arises in whether, in the facts and circumstances of the present case, the petitioner has to be treated an eligible candidate having passed all the required terms and conditions for selection on the post of Heavy Vehicle Driver.

10. It may be noticed that the petitioner has already passed the written examination for the post in question, which is not in dispute. The petitioner was found eligible for the post in question at the time of scrutiny



of documents, which is also not in dispute. The only dispute is with regard to the driving proficiency test, as the petitioner has been declared 'failed' in the said test

11. Once the high Level Committee was formed to make observation with regard to the unsuccessful candidates on the basis of the video-graphy of their driving proficiency test, the observation of the said committee has to be given weight-age. It is the conceded position that the high level committee after watching the video of driving proficiency test, noticed no fault in the vide clipping during the Dug Test. It means that the petitioner has cleared the said dug test. Merely that the report of the committee of the General Manager was called for does not mean that the General Manager will give his report over and above the report of the high Level Committee.

12. Even otherwise, nothing has come on record that the report of the General Manager was ever placed before the High level Committee, so as to reconsider the observation of the high Level committee according to which, no fault was found in the video clipping of the dug test qua the petitioner. In the absence of any such material put before the high level committee, merely that subsequent to the recommendation of the High Level Committee where nothing was found amiss in the driving test of the petitioner, a report has been obtained same cannot be given preference over and above the report of the High Level Committee. The opinion of the high Level Committee has to prevail over the subsequent view of the General Manager.

13. Keeping in view the above in the facts and circumstances of the present case and keeping in view the report of the high Level Committee which has been constituted by the respondents themselves, wherein no fault



has been found qua the driving proficiency test of the petitioner, the petitioner has to be treated eligible having cleared the said driving proficiency test.

14. Now the question arises as to what relief be given to the petitioner.

15. Once, the petitioner has cleared all the requisite steps of the selection process so as to be eligible to be selected for the post of Heavy Vehicle Driver, in case, any candidate having lower merit in the category in which the petitioner has competed, has been selected and appointed, the petitioner be considered eligible for the appointment on the post in question from the date candidate lower in merit has been appointed. The petitioner will be given all the benefit of seniority and all other benefits including the salary for the period the petitioner was kept out of service on the basis of arbitrary and illegal action on the part of the respondents.

16. Let the said order be complied within the period of eight weeks from the receipt of certified copy of this order.

17. The present petition is allowed in above terms.

18. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

23.05.2024
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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*