

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.215

Civil Writ Petition No.20963 of 2020
Date of Decision : January 29, 2024

Soni

..Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sarthak Gupta, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the prayer of the petitioner is that she has not been issued Sports Gradation Certificate under the Sports Policy dated 25.05.2018 (Annexure P-17), which the petitioner required so as to stay in service, keeping in view the order passed by the Division Bench in LPA No.1332-2019, titled as **State of Haryana & anr. vs. Shankar and others**, decided on 09.10.2020.
2. Certain facts needs to be noticed for the correct appreciation of the issue in hand.
3. In pursuance to an advertisement No.4/2018 dated 26.08.2018, the petitioner had applied for Group-D post under the category of Eligible Sportsperson (BCA). The petitioner had uploaded the requisite certificates along with her application. The claim of the petitioner so as to be considered under the Eligible Sportsperson (BCA) category was based upon

a fact that she had won a Gold Medal at the Senior National Pencak Silat Championship 2018. The petitioner competed for the post in question and ultimately got selected under the category of Eligible Sportsperson and was offered the post of Helper Mechanical (Group D) on 31.01.2019.

4. Thereafter, a question arose as to what criteria should have been followed by the respondents for determining the eligibility of a candidate claiming appointment under the category of Eligible Sportsperson. The State of Haryana was of the view that only the sports gradation certificate which has been issued under a policy which was applicable on the date of the advertisement i.e. 26.08.2018 will be considered relevant so as to consider the claim of the sportsperson but the candidates were claiming the benefit of appointment under the category of Eligible Sportsperson on the basis of sports gradation certificate which had already been issued prior to the sports Policy dated 25.05.2018. The said issue was ultimately decided by the Division Bench in **Shankar's case** (supra) that only the gradation certificates which have been issued under the sports policy dated 25.05.2018 are the relevant gradation certificates so as to consider the claim of the candidates claiming appointment under the Eligible Sportsperson category, however, a time frame was given to the candidates who were already appointed to seek appropriate gradation certificate under the Sports Policy dated 25.05.2018 and supply the same to the Department concerned so as to remain in service, failing which, the State was given powers to pass appropriate orders qua the eligibility of such candidates.

5. Keeping in view the judgment of the Division Bench, the candidates who had already been selected and appointed on the basis of the

gradation certificate, which were issued prior to the policy dated 25.05.2018, were given time till 31.12.2020 to supply the appropriate gradation certificate under the gradation policy dated 25.05.2018 for the consideration of the Department so as to determine the eligibility of such candidates. The petitioner applied for the gradation certificate under the sports policy dated 25.05.2018 but the benefit of gradation certificate under the said policy has been declined by the respondents, which action is under challenge in the present petition.

6. Learned counsel for the petitioner argues that the petitioner had played sport of Pencak Silat and the said sport has been included in the Asian Games, hence, from a conjoint reading of the Policy dated 25.05.2018, the petitioner is very much eligible for the issuance of the gradation certificate.

7. Learned State counsel submits that the sport/game which the petitioner has played, is not part of the sports policy dated 25.05.2018 as prevalent on the date of the advertisement and only those sports/games which are included in the Haryana Sports Policy dated 25.05.2018 are to be considered for the benefit of gradation. Learned State counsel further submits that in order to get a gradation certificate, the eligibility criteria/condition envisaged under Clause 3 and Clause 4 of the Policy dated 25.05.2018 is required to be proved, which is missing in the case of the petitioner, hence, a gradation certificate as being claimed by the petitioner has not been issued in her favour.

8. Learned counsel for the petitioner argues that though the sport/game being played by the petitioner is not mentioned in the sports policy under clause-4 but the details of the games mentioned in the Sports

Policy under the heading Sports Discipline are only indicative and not exhaustive, hence, the sports being played by the petitioner is deemed to be covered under the sports discipline mentioned in the sports policy, which are to be taken into consideration under Clause 4 (i) of the instructions dated 25.05.2018 for the grant of gradation certificate.

9. Learned counsel for the petitioner submits that once it has been mentioned that the Government is to promote all sports discipline which are regularly pitching in Olympic, Asian and Commonwealth Games, the sport being played by the petitioner, which is part of the Asian Games, is to be deemed to be a sport mentioned in the sports policy.

10. Learned counsel for the petitioner further submits that apart from the games, the details of whom have been mentioned in the sports policy, measures are to be taken to promote the rural game and the games which are likely to be included in the future Asian Games, hence, as the sport being played by the petitioner is the part of the Asian Game and the State had already decided to promote the same, the petitioner is entitled for the grant of gradation certification under the policy dated 25.05.2018.

11. I have heard learned counsel for the parties and have gone through the record thoroughly.

12. It is a settled principle of law that any claim raised should be within the four corners of the rules, regulations and the instructions issued by the Govt. on the issue concerned. It is the conceded fact before this Court that the claim for the grant of gradation certificate, as asked by the petitioner in the present petition, should have been in accordance with the policy dated 25.05.2018 and the petitioner must fulfill the eligibility criteria prescribed keeping in view the sports discipline covered in the said policy.

13. As per the Policy dated 25.05.2018, the eligibility condition/criteria mentioned to seek the gradation certificate is as under:-

“3. Eligibility:

- (i) The sportsperson plays for Haryana State at national level; or
- (ii) The sportsperson is Haryana domicile and does not represent State/UT other than Haryana at national level

4. Sports Disciplines Covered:

- (i) Only those Sports/Games which are included in Haryana Sports Policy, as amended from time to time.
- (ii) For international/Asian/Commonwealth tournaments, the individual/team should be sent/sponsored by Ministry of Sports & Youth Affairs or Sports Authority of India or National Level Sports Federation affiliated to Indian Olympic Association.”

14. A bare perusal of the above would show that a sportsperson who plays for Haryana State at the National level and secondly, the sportsperson is Haryana domicile and does not represent State/U.T. other than Haryana at National Level. With regard to the sports discipline, according to Clause 4(i), only the sports/games which are covered under the Haryana Sports Policy are to be considered for the grant of gradation certificate. As per Clause 4(ii), in case an individual has made representation at international/Asian/Commonwealth either as an individual or as a team, the same can be taken into consideration, in case, the said participation is sent/sponsored by the Ministry of Sports and Youth Affairs, Sports Authority of India or National Level Sports Federation affiliated to Indian Olympic Association.

15. The question which arises before this Court is whether the claim of the petitioner is covered under Clause 4 of the policy dated

25.05.2018 or not.

16. It is a conceded position that keeping in view the list of the games which have been included in the Haryana Sports Policy, the sport being played by the petitioner is not the part of the Haryana Sports Policy, wherein, 26 sports events which are included in Olympic Games and 16 sports events which are not included in the Olympic Games have been treated as a valid sports event for issuance of a gradation certificate to a candidate.

17. The argument which has been raised by the learned counsel for the petitioner that the list of sports event mentioned in the sports policy is only indicative and not exhaustive cannot be accepted for the reason that once while issuing the sports policy, the detail of 26 games which are part of the Olympic and 16 games which are not part of the Olympic have been treated as a valid game for issuing the sports gradation certificate, it cannot be said that the said games are only indicative and not exhaustive. Further, a Standing Committee has been made to recommend the inclusion and deletion of the list of sport events which shows that the list is final and in case, any game is to be deleted or included, there has to be a Standing Committee so as to recommend the same. Hence, the argument being raised by learned counsel for the petitioner cannot be accepted.

18. Further, with regard to the argument of the learned counsel for the petitioner that the game played by the petitioner is a part of the Asian Games, hence, as per the sports policy, appropriate measures are to be taken to promote the said game, it may be noticed that the sports policy is a policy as to how the sports in State of Haryana are to be promoted, whereas, the gradation policy is with regard to as to how sportsperson is to be graded and

what benefit can be given to such graded sportsperson, hence, the argument of the learned counsel that both the sports promotion policy and sports gradation policy is one and the same, is not correct.

19. Further, it may be noticed that even the participation in the international, Asian and Commonwealth tournaments has already been made part of the gradation policy but there are certain conditions laid down for the gradation of the said events. Even if, the sports of the petitioner has not mentioned in the list of the sports discipline in the sports gradation policy, but in case a sportsperson has participated and won position in an international tournament, the same has already been recognized in Clause 4 (ii) of the gradation policy. Hence, merely that under sports promotion policy, it has been mentioned that sport event of Olympic, Asian Games, Commonwealth Tournament should be promoted but mere promotion will not give a right to the petitioner to contend that sport event in which the petitioner participated should be treated as a valid sport to claim gradation certificate and that too in the absence of said sport being recognized as a valid sport in sports gradation policy.

20. Learned counsel for the petitioner submits that out of the total five years, the petitioner has worked for the last three years under the interim orders of the Court. It may be noticed that there are similarly situated sportsperson who could not submit the sports gradation certification so as to maintain their selection. It is a settled principle of law that only the eligible candidates, who fulfill the eligibility as per the advertisement, are entitled to the appointment. Further, as per the judgment of the Division Bench, only the candidates who submit their gradation certificate are to be allowed to continue, hence, the prayer of the petitioner so as to allow her

continue in service only on the ground that she has been in service for the last five years cannot be made a ground for grant of the said benefit and that too at the costs of any other eligible person who has gone the same in case the petitioner would not have been selected.

21. Keeping in view the above-mentioned fact, especially that nothing has been shown to this Court as to how the claim of the petitioner is covered under Clause 4 (i) or 4(ii) of the Instructions dated 25.05.2018, no direction can be issued to the respondent-State for the grant of gradation certificate and no interference is called for by this Court in the facts and circumstances of this case.

22. Dismissed.

January 29, 2024
Ankur

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No