



CWP-7059-2023 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209 (1) CWP-7059-2023 (O&M)
Date of decision: 21.02.2025

NIRBHAY KUMAR BHARDWAJ AND OTHERS
....PETITIONERS
Vs.
STATE OF HARYANA AND OTHERS ...RESPONDENTS

Sr. No	Case Nos.	Name of parties
2.	CWP-13048-2023	SACHIN KUMAR V/S STATE OF HARYANA AND OTHERS
3.	CWP-13490-2023 (O&M)	VIJENDER AND OTHERS V/S STATE OF HARYANA AND OTHERS
4.	CWP-7134-2023 (O&M)	PINKI AND OTHERS V/S STATE OF HARYANA AND OTHERS
5.	CWP-8694-2023 (O&M)	ATUL GATHANIA AND OTHERS V/S STATE OF HARYANA AND OTHERS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rahul Sharma-I, Advocate
for the petitioners in CWP-7059-2023.

Mr. Rajat Mor, Advocate and
Ms. Surya Dhanda, Advocate
for the petitioner(s) in CWP-7134-2023.

Mr. A.S. Nirmaan, Advocate
for the petitioner in CWP-13048-2023.

Mr. Jasbir Mor, Advocate
for the petitioners in CWP-8694-2023.

Ms. Shruti Jain Goel, Sr. DAG, Haryana.

Mr. B.R. Mahajan, Senior Advocate with
Ms. Nikita Goel, Advocate
for respondent No. 3 in CWP-7059 and 7134 of 2023



Ms. G.K. Mann, Sr. Advocate with
Mr. Gursharan Singh, Advocate and
Ms. Simrat Kaur, Advocate
For respondents No. 5 to 12 in CWP-8694-2023.

Mr. Akshaydeep Singh Balyan, Advocate
for respondent No.3 in CWP-13048-2023.

Mr. Anuj Garg, Advocate,
Mr. Himanshu Bansal, Advocate and
Mr. Yashveer, Advocate
for respondents No. 4 to 11 in CWP-7059-2023.

JAGMOHAN BANSAL, J (ORAL)

1. By this common order, above-said petitions are hereby disposed of since issues involved in the above captioned petitions and prayer sought therein are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-7059-2023.
2. The petitioners through instant petition under Article 226 of the Constitution of India are seeking setting aside of advertisement No. 3/2023 dated 07.03.2023 (Annexure P-6) whereby 33 posts of Seed Certification Officer (for short 'Seed Officer') in the Haryana State Seed Certification Agency were advertised along with other posts.
3. The respondent by notification dated 05.05.2022 issued a detailed procedure with respect to CET. The said notification clearly provides that for Group C & D posts, the aspirants would be required to qualify CET. A candidate can apply for the post, if he has qualified CET. In clause 7, a detailed procedure has been prescribed. Relevant extracts of the notification dated 05.05.2022 are reproduced as below: -

*“No. 42/119/2019-5GS-I.— Whereas fair and reasonable
process of selection to posts subject to the norm of equality of*



opportunity under Article 16(1) of the Constitution of India is a constitutional requirement.

Whereas with a view to secure and sustain the confidence of the public in general and to ensure credible and trustworthy recruitments to Government posts, the Government of Haryana proposes to introduce a Common Eligibility Test to simplify and standardize the recruitment process for Government employment to all direct recruitment to Group C posts including the posts of Police service, Prisons and Home Guards etc. but excluding the teaching posts and all direct recruitment to Group D posts other than the posts where minimum educational qualification is below Matriculation in the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 (5 of 2018). This test shall be held once every year or as decided by the Government from time to time. In supersession of Haryana Government, General Administration Department (in General Services-I Branch), Notification No. 42/119/2019-5GS-I, dated the 10th September, 2021, the State Government is pleased to declare the following policy for recruitment through the Common Eligibility Test, namely:-

1. SHORT TITLE AND APPLICABILITY.

- (i) This policy may be called the Policy for Recruitment to Group C and D posts through Common Eligibility Test, 2022.*
- (ii) It shall apply to direct recruitment to Group C posts including the posts of Police service, Prisons and Home Guards etc. excluding the teaching posts and Group D posts other than those posts where minimum educational qualification is below Matriculation in the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 (5 of 2018), in the departments of State Government or any Board, Corporation, statutory body or any other agency owned and controlled by the State Government other than any University established by or under a State Act.*



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5. REGISTRATION FOR CET :

- (i) *All applicants shall register on a designated portal i.e. onetimereg.haryana.gov.in by such last date to be published by an advertisement issued by the Commission, providing all particulars relating to the identity of the applicant and uploading all the required documents relating to any claim including claim for reservation, educational qualifications, experience and socio-economic criteria weightage and such other details as the Government or the Commission may seek, from time to time, for the purpose of recruitment.*
- (ii) *The Parivar Pehchan Number enables the recruiting agency to verify the applicant's claims in respect of residence, educational and other qualifications, caste and experience certificate, family income/assets, status of parents (if any parent is deceased the verification of death certificate is involved), marital status of female applicant, separation certificate of legally separated women, disability certificate, sports gradation certificate, denotified tribe/Vimukt Jati certificate, certificate of ex-serviceman, dependent of exservicemen certificate, dependent of freedom fighter, FIR copy etc.*

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7. CET EXAMINATION AND MARKS FOR GROUP C POSTS:

- (i) *An applicant who intends to apply for direct recruitment to any applicable Group C post shall have to appear in CET for Group C posts.*
- (ii) *The Commission shall issue an advertisement for Group C posts based on requisition received from the Departments of State Government or any Board,*



Corporation, statutory body or any other agency owned and controlled by the State Government stating its intent to conduct the CET.

- (iii) *An applicant who does not possess the CET minimum educational qualification specified for CET before the last date of registration for CET on the designated portal but is due to appear for the examination to attain the appropriate educational qualification during the year in which the CET is conducted, shall also be eligible to appear in the CET:*

Provided that the name of such applicant shall not be considered for skill and/or written examination for the advertised posts until he acquires the minimum essential educational qualification and/or experience, if any, specified for that post by the last date for attaining such minimum qualification specified in the advertisement issued by the Commission for the conduct of skill and/or written examination.

- (iv) *An applicant who has not attained the minimum age or who has crossed the maximum age limit prescribed by Government for entry into Government service for Group C post as on the last date fixed in the advertisement published by the Commission for registration for CET shall be ineligible to appear in CET. The relaxation in upper age limit to the applicants of Scheduled Castes, Backward Classes and other categories and of experience shall be admissible as per rules or instructions issued by Government from time to time.*
- (v) *Every applicant, who appears in the CET, shall be given marks based on his performance in the CET. An applicant of general category shall have to obtain minimum 50% marks in CET (excluding the socioeconomic criteria weightage) to be eligible for*



skill and/or written examination of second stage, however, an applicant of reserved category (both vertical and horizontal) shall receive concession @ 10%, for the purpose of eligibility for CET, i.e. the minimum cut-off for such candidates shall be 40% (excluding the socioeconomic criteria weightage). An applicant of any category who obtains less than the minimum marks in CET, shall have to re-appear in CET in the next or any subsequent attempt.

- (vi) The CET marks of applicants shall be declared on the website of the Commission.*
- (vii) An applicant shall be eligible to reappear in CET whenever conducted on a subsequent date and the CET marks shall be revised if the applicant improves it in the next or any subsequent attempts.*
- (viii) There shall be no restriction on the number of attempts to appear in the written examination component of the CET. If an applicant who has already qualified the CET for Group C post will have the option to appear again in CET to improve his CET marks in the next or any subsequent occasion, if he so desires.*
- (ix) The CET marks obtained by an applicant shall be valid for a period of three years from the date of declaration of the result of CET. Provided that if an applicant improves his CET marks in the next or any subsequent attempt, then the fresh period of validity of three years will commence from the date of declaration of result of such attempt.*

For clarification on validity of CET marks, see Illustration No. 1 at Annexure-C of this policy.

- (x) For calculation of CET score of an applicant, the marks obtained in the CET shall be added to the score. if any, on account of socio-economic criteria*



weightage to arrive at the CET score of the applicant. The calculation methodology for arriving at the CET score has been illustrated at Illustration No. 2 at Annexure-C.

- (xi) CET marks and the marks of socio-economic criteria weightage, if any, shall be declared on the website of the Commission in respect of the applicants who have achieved the specified cut-off as per sub-clause (v) above.”*

4. From the perusal of above quoted clauses, it is evident that respondent-State with intent to shortlist candidates for Group-C & D posts has notified CET. This is first stage of selection process. A candidate may participate in CET as many times as he wants. The minimum educational qualification has been prescribed for participating in CET. It has been further provided that a candidate belonging to General Category would stand qualified if he attains 50% marks and 40% in case he belongs to reserved category (both vertical and horizontal). CET marks are valid for three years from the date of declaration of result.

5. The respondent with intent to conduct CET, issued advertisement No. CET 1/2022 dated 05.05.2022 for CET (Group C posts). In paragraph No. 1 of the advertisement under heading “Introduction, Registration process and Cut off date” it was mentioned that CET is to be conducted by Haryana Staff Selection Commission or any other agency on its behalf and thereafter skill and/or written examination of the candidates who are eligible on the basis of CET score for the posts mentioned at Annexure-H. In paragraph No. 2 of the advertisement under heading “Posts to be advertised after conduct of CET” it was mentioned that Group-C posts available for recruitment are attached at



Annexure 'H' and that detailed advertisement for approximately 26,000/- posts mentioned at Annexure 'H' along with number of posts and qualifications will be issued after the conduct of CET 2022 by virtue of sub-clause (i) clause 9 of notification dated 05.05.2022. There is Annexure 'H' appended with advertisement for conducting CET. In the said Annexure, details of the departments and posts which would fall in Group-C are given. Posts of Accountant at Serial No. 6, Clerk-cum-Data Entry Operator at Serial No. 102, Junior Scale Stenographer at Serial No. 208, Steno-Typist at Serial No. 337 and Technical Assistant at Serial No. 403 are incorporated in Annexure 'H' as being posts for the department of Haryana State Seed Certification Agency (for short 'Seed Certification Agency').

6. The petitioners are working as Seed Officer with the Seed Agency. They are engaged as contractual employees under the outsourcing policy of the State Government.

7. The Haryana Staff Selection Commission (for short 'HSSC') after successfully conducting CET, issued an advertisement No. 3/2023 on 07.03.2023 inviting online applications for different posts. It is apt to mention here that exam to be conducted, pursuant to aforesaid advertisement was stage II. The advertised posts included 33 posts of Seed Officers in the Seed Clarification Agency. The same is reflected at category No. 175 of Annexure 'B' appended to the advertisement.

8. Counsel for the petitioners submit that in the advertisement for CET, Annexure 'H' was enclosed prescribing different posts. The posts of Seed Officer, Mining Inspector, Section Officer (Geology) and Municipal Engineer were not included. The petitioners did not apply for CET under the impression that their posts are not advertised. Thus, they are not supposed to appear in the



CET. The respondent by impugned advertisement has advertised 33 posts of Seed Officer, 62 posts of Mining Inspector, 44 posts of Municipal Engineer and 12 posts of Section Officer (Geology) in the respective departments. The written test pursuant to impugned advertisement is second stage. In the first stage different posts were notified in the form of Appendix 'H' which did not include posts of Seed Officer, Mining Inspector, Municipal Engineer and Section Officer (Geology). The respondent by impugned advertisement cannot extend scope of CET. The respondent could advertise only those posts which were subject matter of CET. If the aforesaid posts are included in stage-II test, the petitioners would be deprived of their valuable right to participate.

9. Per contra, Ms. Shruti Jain Goyal, Senior DAG, Haryana and Ms. Nitika Goel, Advocate submit that posts in question are Group-C posts. There was open advertisement and different posts were mentioned in Annexure-H as reference. Any post which is Group-C post can be brimmed through impugned advertisement. The petitioners intentionally did not participate in CET and are trying to take advantage of their own mistake. It was a calculated ruse on their part. The Commission has already completed selection process for the post of Legal Assistant, Section Officer, Radiographer, thus, petitions *qua* those posts have rendered infructuous

10. Ms. G.K. Mann, Sr. Advocate submits that any post which is Group-C could be advertised. Posts mentioned in the advertisement of CET were referral posts. Every candidate who was aspirant for Group-C post, was supposed to participate in CET.

11. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.



12. Before advertizing the issue involved, it would be apt to notice relevant clauses of the advertisement No. CET 1/2022 which are reproduced as below:-

1. Introduction, Registration process and Cut off date

“ -----The CET is to be conducted by Haryana Staff Selection Commission or any other agency on its behalf and thereafter skill and/or written examination of the candidates who are eligible on the basis of CET score for the posts mentioned at Annexure-H. -----”

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2. Posts to be advertised after conduct of CET

Group-C posts available for recruitment are attached at Annexure-H. Detailed advertisement for approx.. 26,000 posts (tentative) mentioned at Annexure-H along with number of posts and qualifications will be issued after the conduct of CET-2022 (for Group-C Posts) by virtue of sub-clause (i) of clause 9 of Notification No. 42/119/2019-5GS-I dated 5th May 2022.

13. From the perusal of record, it is evident beyond the iota of doubt that in advertisement No. CET 1/2022 there was Annexure ‘H’ wherein different posts were jotted down. The said Annexure included multiple Group-C posts of different departments. In the Seed Certification Agency as well as other Government Departments, there are multiple posts of Group-C. The respondent included many posts in Annexure-H, however, posts of Seed Officer, Mining Inspector, Section Officer (Geology) and Municipal Engineer were not incorporated. This may be mistake on the part of respondent. However, it is quite clear that multiple posts were mentioned in the advertisement, however, posts in questions were not mentioned. In the advertisement, it was also not mentioned that any other post which is Group-C would be deemed to be



included. Nothing prevented respondent to specify that Group-C post of every department would be deemed to be included. By preparing a detailed sheet wherein multiple departments and multiple posts were notified, the respondent made its intention clear that the posts which are not included therein stand excluded. It is fundamental law that if a few categories are included for a particular purpose, the categories not specifically mentioned stand excluded. The above quoted clauses of the advertisement make things clear beyond iota of doubt that CET was conducted with respect to posts mentioned in Annexure 'H'. There was no confusion. The language of the advertisement is quite clear and unambiguous. As the respondent did not include posts in question in the advertisement No. CET/01/2022, there was no question of inclusion of these posts in the subsequent advertisement dated 07.03.2023 which was nothing more than stage-II test. Posts which were not included in stage-I, could not be included in stage-II test.

14. The State in the afore-stated factual position has two options i.e. (i) conduct CET for the only petitioners (ii) another CET inviting applications from all the eligible persons.

15. On the asking of Court, Ms. Shruti Jain Goyal, Senior DAG, Haryana submits that first option would not be viable. If CET is conducted only for the petitioners, it would prejudice others who may not be in job but are eligible to participate in CET. It would be violative of Articles 14 and 16 of the Constitution of India.

16. In the backdrop, this Court finds it appropriate to direct the respondents not to fill up posts of Seed Certification Officer, Mining Inspector, Municipal Engineer and Section Officer (Geology) till the conclusion of another CET incorporating aforesaid posts.



The respondents are claiming that CET is a qualifying test and it is valid for 3 years. They have cleared CET in 2023, thus, its validity is till 2026. If fresh CET to permit the petitioners to participate is not conducted at the earliest possible, it may prejudice their interest because there is likelihood that tenure of their qualifying test may expire and they might have to appear again in CET. The concern expressed by private respondents seems to be just and fair. To allay their apprehension, the respondents are requested to conduct CET as expeditiously as possible.

17. It is hereby made clear that this order would not help petitioners who are aspirants for the post of Legal Assistant or Radiographer and second stage test has already been conducted.

18. Disposed of in above terms.

19. Pending miscellaneous application(s), if any, shall also stand disposed of.

21.02.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No