



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No. 427 of 2025 (O&M)

Reserved on:21.03.2025

Date of Decision: 01.05.2025

Jai Parkash

...Appellant

Versus

State of Haryana and others

...Respondents

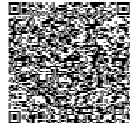
CORAM: *HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA*
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Jasbir Singh Mor, Advocate
for the appellant.

Mr. Saurabh Mohunta, DAG, Haryana
for the respondents.

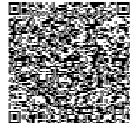
MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment handed down by learned Single Judge on 10.07.2024 whereby ***CWP No.23468 of 2021***, filed by the appellant-writ petitioner (here-in-after to be referred as 'the appellant') for seeking the issuance of a writ in the nature of certiorari, quashing the result as declared on 14.11.2021 in respect of Advertisement No.6 of 2006 and also a writ in the nature of mandamus, directing the respondents to select him for the post of Art and Crafts Teacher in the Ex-Servicemen General (ESM-GEN) Category, has been dismissed as well as by the order passed on 20.01.2025 regarding the dismissal of ***RA-CW No.517 of 2024 in CWP No.23468 of 2021***, as moved by him (appellant) for seeking the review of



the afore-mentioned judgment, he has chosen to prefer the instant Letters Patent Appeal.

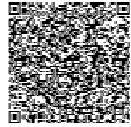
2. Short and short of unnecessary details, the facts, culminating in the filing of the present appeal, are that the appellant filed the above-said **CWP**, while averring that in pursuance of the afore-referred Advertisement, he had applied for the post of Art and Crafts Teacher in DESM (Dependent of Ex-Servicemen)-GEN Category. He appeared and qualified the written examination. Then, he was called and had appeared for the interview also but he was declared to be ineligible for his selection on the post reserved for the above-mentioned category, on the ground that he had submitted the requisite DESM Eligibility-Certificate that had been issued on 16.06.2016, much after the cut-off date as fixed for applying for the afore-said post, i.e 21.08.2006. He had secured 104 marks in the written examination whereas the last candidate selected in the above-referred category, had secured total 96 marks including the marks of interview as well. Respondents No.1 and 2 filed their joint Short Reply and asserted therein that the Department of Elementary Education had sent a requisition to the Haryana Staff Selection Commission (for short 'the HSSC') for the selection and recommendation of the eligible candidates for the posts of Art and Crafts Teacher, strictly according to the provisions of Service Rules and Government Instructions and the writ petition deserved dismissal qua them. Respondent No.3-HSSC filed its separate Short Reply wherein it had contested the claim of the appellant, *inter-alia*, on the grounds that the last/cut-off date for filing the applications in pursuance of Advertisement No.06 of 2006 was 21.08.2006.



However, the result declared initially, in respect of this selection process, was set-aside vide the judgment passed by learned Single Judge in **CWP No.18482 of 2010** on 20.02.2015 which had been upheld vide the judgment rendered by the Division Bench on 10.11.2020 in **LPA No.359 of 2015** and the **SLP** preferred against the afore-mentioned judgment was dismissed by the Apex Court. Thereafter, the HSSC issued the notice Annexure P-2 for conducting the examination afresh for the above-said posts as advertised in the year 2006. The appellant submitted the DESM Eligibility-Certificate, which had been issued on 16.06.2016, i.e much after the expiry of the afore-referred cut-off date and hence, he had rightly not been considered to be eligible for his selection to the above-mentioned post. In his replication, the appellant reiterated his earlier stand as put-forth in the **CWP**, besides controverting the assertions, as made by respondent No.3-HSSC in its Short Reply. After hearing the counsel for both the parties, learned Single Judge has dismissed the **CWP** vide the impugned judgment and vide the impugned order, he has dismissed the **Review Application** moved by the appellant, as discussed in the opening para of this judgment.

3. We have heard learned counsel for the appellant as well as learned counsel for the respondents in this Letters Patent Appeal and have also gone through the file carefully.

4. Learned counsel for the appellant has contended that Annexure P-16 is the copy of the Eligibility-Certificate issued by the Secretary, Zila Sainik Board, Bhiwani in the name of the appellant on 19.08.2006 and Annexure P-17 is the copy of the Interview-Card issued to the appellant on



11.08.2008 wherein the category of his candidature has specifically been mentioned as DESM-GEN and both these documents make it crystal clear that the appellant had been issued the requisite Eligibility-Certificate, for the purpose of applying under DESM-GEN Category, well before the cut-off date for submitting the Application Forms, i.e 21.08.2006 and he had also been called for the interview for filling up the posts of the afore-said category and when the selection process was conducted again after the previous selection process and result had been set-aside, he (appellant) had submitted a fresh Eligibility-Certificate, Annexure R-3, as issued to him on 16.06.2016 and in these circumstances, the appellant could not be declared to be ineligible for his selection to the post of Art and Crafts Teacher under the above-referred category and therefore, the impugned judgment and the order are not legally sustainable and hence, these are liable to be set-aside.

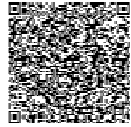
5. Per contra, learned counsel for the respondents has argued that as per the conditions set-out in the afore-mentioned advertisement, the candidates applying under a particular reserved category, were required to submit the necessary certificate in support of their such claim, along-with the Application-Form and the appellant had not complied with the above-said condition and he had, rather, submitted the Eligibility-Certificate later-on which had been issued much after the afore-referred cut-off date and it being so, he has rightly been considered to be ineligible for his selection under the above-indicated category.

6. Admittedly, the appellant had applied for his selection to the post of Art and Crafts Teacher in pursuance of Advertisement No.06 of 2006



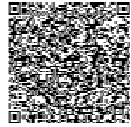
and the result of the selection process had been set-aside vide the judgment rendered by learned Single Judge of this Court and the afore-said judgment was upheld by the Division Bench and was, further, affirmed by Hon'ble Supreme Court also. Consequently, the fresh selection process for filling up the above-mentioned posts was conducted by respondent No.3-HSSC and the appellant appeared/participated and qualified the written examination and was called for the interview and scrutiny of the documents. In Para No.10 in the CWP, the appellant has categorically averred that he had obtained 104 marks in the written examination whereas the last selected candidate had secured 96 marks. In the corresponding para in its Short Reply, respondent No.3-HSSC has not denied/controverted the afore-said fact. Though, Annexure R-3, the Eligibility-Certificate issued in the name of the appellant, bears the date 16.06.2016 but the fact remains that Annexure P-16 is the copy of the Eligibility-Certificate issued to him on 19.08.2006, i.e prior to 21.08.2006, the cut-off date as fixed for submission of the Application-Forms. To add to it, Annexure P-17 is the copy of the Interview-Card as issued to the appellant on 11.08.2008 wherein the category of his candidature has specifically been mentioned as DESM-GEN and in such circumstances, it does not lie in the mouth of the respondents to assert that the appellant was ineligible for his selection to the above-referred post, under the afore-mentioned category, on the ground that the Eligibility-Certificate Annexure R-3 had been issued to him on 16.06.2016.

7. Even if for the sake of arguments, it is presumed that the appellant had not submitted the requisite Eligibility-Certificate at the time



of submitting his Application-Form, even then the fact remains that he had produced the same at the time of his interview and in Annexures R-1 and R-2, the copies of the Attendance-Sheets for the interview as prepared by the respondent-HSSC, he has been shown to be eligible under the DESM-GEN Category. The three Judges' Bench of the Apex Court has made the following observations in **Dolly Chhanda Vs. Chairman, JEE 2005 (9) SCC 779:-**

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.



8. xxxxxxx

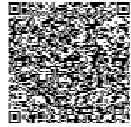
9. *The appellant undoubtedly belonged to reserved MI category. She comes from a very humble background, her father was only a Naik in the armed forces. He may not have noticed the mistake which had been committed by the Zilla Sainik Board while issuing the first certificate dated 29.6.2003. But it does not mean that the appellant should be denied her due when she produced a correct certificate at the stage of second counselling. Those who secured rank lower than the appellant have already been admitted. The view taken by the authorities in denying admission to the appellant is wholly unjust and illegal.”*

8. In **Ram Kumar Gijroya Vs. Delhi Subordinate Services**

Selection Board and another 2016 (4) SCC 754, another three Judges’

Bench of Hon’ble Supreme Court has made the following observations:-

*“The Division Bench of the High Court erred in not considering the decision rendered in the case of Pushpa (supra). In that case, the learned single Judge of the High Court had rightly held that the petitioners therein were entitled to submit the O.B.C. certificate before the provisional selection list was published to claim the benefit of the reservation of O.B.C. category. The learned Single Judge correctly examined the entire situation not in a pedantic manner but in the backdrop of the object of reservations made to the reserved categories, and keeping in view the law laid down by a Constitutional Bench of this Court in the case of **Indra Sawhney v. Union of India, 1992 (Supp) 3 SCC 217** as well as **Valsamma Paul V. Cochin University and ors., (1996) 3***



SCC 545. The learned Single Judge in the case of Pushpa (supra) also considered another judgment of Delhi High Court, in the case of Tej Pal Singh (supra), wherein the Delhi High Court had already taken the view that the candidature of those candidates who belonged to the S.C. and S.T. categories could not be rejected simply on account of the late submission of the caste certificate.

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The purpose of such certificate is to enable the authorities to believe in the assertion of the candidate that he belongs to ‘SC’ category and act thereon by giving benefit to such candidate for his belonging to ‘SC’ category. It is not that petitioners did not belong to ‘SC’ category prior to 30th June, 1998 or that acquired the status of being ‘SC’ only on the date of issuance of the certificate. In view of this position, necessitating upon a certificate dated prior to 30th June, 1998 would be clearly arbitrary and it has no rationale objective sought to be achieved.”

9. In the light of above-quoted observations, it becomes quite explicit that the respondents have gravely erred in considering the appellant as ineligible for his selection to the post of Art and Crafts Teacher, under the DESM-GEN Category, on the score that his Eligibility Certificate had been issued after the cut-off date, fixed for applying for the afore-said post.

10. As a sequel to the fore-going discussion, we hereby set-aside the impugned judgment and the order as passed by learned Single Judge in the **Civil Writ Petition** and the **Review Application** respectively and further



direct respondent No.3-HSSC to consider the candidature of the appellant for the post of Art and Crafts Teacher under DESM-GEN Category within a period of three months and in case, he is found to be more meritorious than the last candidate selected in the above-said category, then to send the recommendation to the concerned Authority in accordance with law. In case of his appointment to the afore-referred post, he shall be entitled to the consequential benefits of seniority, pay fixation etc. with effect from the date when the persons, situated similar to him, had been appointed. It is further clarified that the appellant shall not be entitled for the salary of the above-mentioned period as he had not worked on the above-referred post.

11. The Letters Patent Appeal in hand stands allowed accordingly.
12. All the pending miscellaneous applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

May 01, 2025
pooja

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*