

(1) Vs. State of Haryana and Others

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Court : Punjab and Haryana

Decided On : Feb-11-2014

Appellant : (1)

Respondent : State of Haryana and Others

Judgement :

CIVIL WRIT PETITION NO.8445 of 2012 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CIVIL WRIT PETITION NO.8445 of 2012
DATE OF DECISION: FEBRUARY11 2014 (1) Rajender Sharma Petitioner
VERSUS State of Haryana and others Respondents (2) CIVIL WRIT PETITION
NO.8391 of 2012 DATE OF DECISION: FEBRUARY11 2014 Zile Singh
.....Petitioner VERSUS State of Haryana and others Respondents CORAM:-
HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI1 Whether Reporters of
local papers may be allowed to see the judgement?.

2.

To be referred to the Reporters or not?.

3.

Whether the judgment should be reported in the Digest?.

Present: Mr.I.P.Goyat, Advocate for the petitioner(s).Mr.Harish Rathee, Sr.D.A.G.,
Haryana, for the State.

***** AUGUSTINE GEORGE MASI, J.

(ORAL) By this order, I propose to decide CWP No.8445 of 2012, titled 'Rajender Sharma versus State of Haryana & others' and CWP No.8391 of 2012, titled 'Zile Singh versus State of Haryana & others'.

Petitioners in these two writ petitions have approached this Court claiming the benefit of appointment as Heavy Vehicle Driver from the date persons lower in merit have been appointed by the respondents on the Harish Kumar 2014.02.17 09:36 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.8445 of 2012 -2- recommendations made by the Haryana Staff Selection Commission (for short 'the HSSC'). It is the contention of the counsel for the petitioners that in pursuance to the advertisement No.8/2003 category 15, petitioners applied for the same and were duly selected by the HSSC on 30.11.2004.

Name of petitioner Zile Singh was at Sr.No.16 in the general category whereas the name of petitioner Rajender Sharma was at Sr.No.11 in the general category.

The HSSC made its recommendations Annexure R-1 and Annexure R-2 on 06.12.2004.

In the recommendations Annexure R-1, counsel for the petitioners refers to the list of the recommended candidates who have been placed in the merit at Sr.No.51 and 33 belonging to the general category are at Sr.No.2 and 3 respectively.

He contends that even in recommendation dated 06.12.2004 (Annexure R-2). candidates at Sr.No.1 to 4 are lower in merit than petitioner Rajender Sharma in CWP No.8445 of 2012 whereas candidates at Sr.No.1, 3 and 4 are juniors to petitioner Zile Singh.

He, therefore, contends that petitioners are entitled to all the benefits as have been granted to the persons who are juniors to them in the select list and were recommended by the HSSC prior to the petitioners although they were lower in merit than them.

He accordingly contends that the writ petition deserves to be allowed.

On the other hand, counsel for the respondents submits that the petitioner are not entitled to any claim as mere selection does not confer any right.

The right, if any, accrues to the candidate as and when his name is recommended by the selecting authority and thereafter appointment letter issued to him.

The names of the petitioners were recommended by the Harish Kumar 2014.02.17 09:36 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.8445 of 2012 -3- HSSC vide letter dated 07.02.2006 (Annexure R-3) and on recommendation, petitioners have been appointed.

He accordingly contends that they have been granted the benefits from the date they have joined the post.

Prayer has thus been made for dismissal of the writ petition.

I have considered the submissions made by the counsel for the parties and with their able assistance have gone through the records of the case.

The facts as have been asserted by the counsel for the petitioners are not in dispute.

The only objection which has been taken by the counsel for the respondents on the basis of written statement is that the petitioners although selected but their names having not been recommended by the HSSC were not entitled to appointment prior to the date of their recommendations.

This contention of the counsel for the respondents would be correct till a stage when no appointments are made on the basis of selection conducted by the appointing authority.

As and when recommendations are made and that to of a person who is lower in merit, the right accrues to the persons higher in merit and, therefore, are entitled to similar benefits and similar claims if made.

In the present case as per the admitted facts and based upon the Annexures appended alongwith the written statement it is apparent that petitioners who belonged to the general category were higher in merit than persons mentioned in Annexure R-1 at Sr.No.2 and 3 with merit No.51 and 33 respectively.

Similarly, in Annexure R-3, petitioner Rajender Sharma was senior to all the general category candidates mentioned at Sr.No.1 to 4 as their merit numbers were Harish Kumar 2014.02.17 09:36 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.8445 of 2012 -4- 62, 13, 53 and 54 respectively whereas that of petitioner Rajender Sharma was at Sr.No.11 in merit.

Except for Sr.No.2 whose merit number was 13, other three in Annexure R-2 were lower in merit than petitioner Zile Singh whose merit number at Sr.No.16 in general category.

In the light of these facts, there has been inaction on the part of the HSSC and it could be said that the merit has been given a go-bye while making recommendations for appointment to the post of Heavy Vehicle Driver.

The inaction on the part of the HSSC cannot be a ground for denying the candidates who are higher in merit than the candidates whose names have been recommended prior to them by the HSSC.

The petitioners who are admittedly higher in merit than the candidates who have recommended as has been pointed out in Annexures R-1 and R-2 vide recommendations dated 06.12.2004 are entitled to all the benefits as has accrued to the candidates who have been appointed on the recommendations of the HSSC dated 06.12.2004.

In view of the above, both writ petitions are allowed.

Petitioners are held entitled to and are to be treated as appointed from the date persons immediately lower in merit than the petitioners were appointed.

They shall also be granted all the consequential benefits except actual monetary benefits for the period they were out of service.

It goes without saying that they would be entitled to the benefit of GPF (Old Pension Scheme). These directions be carried out within a period of two months from the receipt of certified copy of this order.

February 11, 2014 (AUGUSTINE GEORGE MASIH) Harish JUDGE Harish Kumar 2014.02.17 09:36 I attest to the accuracy and integrity of this document

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