

consequential benefits.

Shorn of unnecessary details, the facts, in brevity, as borne out from the record as also from the arguments addressed at the bar, are that through advertisement dated 12.01.2011, the respondent Corporation invited applications for filling up 12 posts of Manager (Accounts). As per the procedure for selection, as prescribed in the advertisement, the selection was to be made on the basis of marks secured by the eligible candidates in a written test. The petitioner applied for the consideration of his candidature in Backward Class category, for one of the 12 posts of Manager (Accounts). Having been found eligible, he was permitted to sit in the written examination, which was held on 20.02.2011. On the declaration of the results of the examination, the petitioner found himself at merit no. 16. According to the petitioner, 12 persons over the above the petitioner in merit, did not join, but in spite of this fact, the petitioner was not offered appointment. It is in view of the above facts that the petitioner has approached this Court through the present petition for the above said reliefs.

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

The cadre of the posts of Manager (Accounts) in the respondent Corporation consists of 20 posts, 10 of which were created through a resolution dated 22.12.2010. 08 out of 10 posts, which were in existence prior to the resolution dated 22.12.2010, were being manned by

promotees. The newly created 10 posts, through resolution dated 22.12.2010 along with 02 vacant posts, which were in existence prior to the above said resolution, were advertised through advertisement dated 12.01.2011, to be filled up by way of direct recruitment. It is this advertisement, qua which the petitioner had applied for consideration of his candidature. While the selection, in pursuance to the advertisement dated 12.01.2011, was on, persons working as Executives (Accounts) in the respondent Corporation, which forms the feeder cadre for promotion to the posts of Manager (Accounts), filed a petition in this Court being **C. W. P. No. 2744 of 2011 – Jagtar Singh and others vs. Punjab Agro Industries Corporation Limited.** This writ petition was allowed by this Court vide order dated 04.03.2011, the relevant portion of which is as under :-

“7. Having given my thoughtful consideration to the rival contentions, I am of the considered view that the writ petition must succeed. I say so for the reason that appointment to the post of Manager [Accounts] is admittedly regulated by the 1991 Rules which inter-alia provide that 75% of the posts of Manager [Accounts] are to be filled in by promotion and 25%

posts can be filled in by direct recruitment. Proviso to Rule 10[b] though enables the Corporation to resort to 'direct recruitment' if no one is found suitable, nevertheless the Corporation can not proceed with direct recruitment on the premise that the candidates to be considered for promotion are unsuitable. Suffice it to mention here that as per the stand taken by the respondent the claim of the petitioners or other eligible Executive Grade-I has not been considered at all, therefore, the respondent can not otherwise be heard to say so that the petitioners are unsuitable for promotion.

8. *For the reasons afore-stated, the writ petition is allowed; the impugned resolution dated 22.12.2010 [Annexure P-3] and consequent advertisement dated 12.01.2011 [Annexure P-4] are hereby modified to the extent that the respondent Corporation is directed to adhere to the*

1991 Rules for the purpose of filling up the posts of Manager [Accounts]. It is directed that 75% of the posts be filled up by promotion by following the criteria of seniority-cum-merit and all the eligible Executive Grade-I like the petitioners be considered as per Rules. It is only if the Executive Grade-I are found unsuitable that the Corporation would search for an alternative mode of recruitment for these posts as permissible under the Rules. In view of the fact that there is exigency to fill up the posts even as per the stand taken by the respondent Corporation, it is directed that the claim of the petitioners for promotion as Manager [Accounts] be considered within a period of two months from the date a certified copy of this order is received.”

Through the above quoted order, while modifying the advertisement dated 12.01.2011, which is the advertisement in question, as also the resolution dated 22.12.2010, this Court directed the respondent

Corporation to fill up all the posts of Manager (Accounts), as per the Punjab Agro Industries Corporation Limited Recruitment and Promotion Rules, 1991 (hereinafter referred to as – the Rules), which provided that 75% of the total posts are to be filled up by way of promotion from eligible Executive Grade I officers and the remaining 25% of the posts are to be filled up by way of direct recruitment.

In accordance with the directions given by this Court, as the cadre of Manager (Accounts) was of 20 posts, only 25% of them could have been filled up by way of direct recruitment. As submitted above, as per the above quoted order, this Court had even modified the advertisement in question and issued specific directions to fill up even the advertised posts as per the Rules. That being so, only 25% of the total 20 posts i.e. 05 posts could have been filled up by way of direct recruitment. As per the applicable instructions, pertaining to reservation, the first and fifth post was required to be reserved for candidates belonging to the Scheduled Caste category and the remaining three posts were to be filled up from candidates belonging to the General category. As per the unrebutted stand of the respondent Corporation, in its written statement, this is exactly what has been done. The first and the fifth post has been filled up from the candidates belonging to the Scheduled Caste category and the other three posts have been filled up from the candidates belonging to the General category. The petitioner can stake no claim for appointment against the

posts reserved for Scheduled Caste category and all the candidates, who have been appointed in the General category admittedly have secured more marks than the petitioner. So far as the category of Backward Class is concerned, i.e. the category, to which the petitioner belongs, as per the applicable instructions pertaining to reservation of posts, the 8th post is to be reserved for the Backward Class category and as in the selection in question, only five posts were to be filled up, no post was rightly reserved to be filled up from amongst the candidates belonging to the Backward Class category.

In view of the above, finding no merit in the present petition , the same is ordered to be dismissed. No costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 29.04.2015

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