

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

CWP No.2050 of 2015

Date of decision:09.02.2015

Mubarik & others

... Petitioners

Vs.

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Ramandeep Singh, Advocate for the petitioners.

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TEJINDER SINGH DHINDSA, J.

The petitioners, who belong to the reserved BC-B category have filed the instant writ petition praying for the issuance of a writ of mandamus to direct the respondents to consider their claim for appointment to the post of Drivers.

Briefly noticed, the Transport Department, Haryana issued advertisement in December, 2012, advertising 1513 posts of Heavy Vehicle Drivers and out of which, 135 posts were reserved for BC-B category. The petitioners, who claim to be eligible as per the advertisement applied against the BC-B category and were subjected to a process of selection. In the result that was declared on 10.01.2014, the names of the petitioners figured at Sr. Nos.2, 4 and 8 respectively in the waiting list of BC-B category.

It is the assertion made by learned senior counsel appearing for the petitioners that 2 posts were earmarked for outstanding sports persons of BC-B category and both these posts remained vacant on account of

non-availability of candidates. It is further contended that as per information obtained under the Right to Information Act, 2005, 9 posts of BC-B category have remained vacant for the reason that the driving licenses of 9 candidates of BC-B category, who otherwise were in the merit list were found bogus.

Counsel would refer to the instructions dated 07.10.2008 issued by the Chief Secretary, Government of Haryana at Annexure P-3 on the subject for reservation of jobs for outstanding sports persons in Group C & D in direct recruitment and as per which, the State Government had taken a decision that if suitable candidates of outstanding sports persons are not available in a particular category, then the vacancies are to be filled up from amongst the main category. Reliance has also been placed upon another set of instructions dated 07.10.1998 issued by the Chief Secretary, Government of Haryana at Annexure P-4 on the subject of appointment of candidates out of the waiting list prepared by the Haryana Staff Selection Commission and as per which, the waiting list is to be operated and appointments there from are only to be made if a candidate from the original merit list does not assume charge to the post or if the vacancy remains unfilled for any other reason.

The precise submission raised by learned senior counsel is that 9 posts of BC-B category having remained vacant on account of driving licenses of meritorious candidates having been found bogus and the two posts earmarked for outstanding sports persons of BC-B category also having remained vacant on account of non-availability of candidates, the instructions dated 07.10.2008 at Annexure P-3 and 07.10.1998 at Annexure P-4 would come into play and the present petitioners, who are at Sr. Nos.2,

4 and 8 in the waiting list would be vested with a right to be offered appointment to the post of Heavy Vehicle Driver. It is also the contention raised by learned senior counsel that the instructions upon which reliance has been placed would hold the field inasmuch as the advertisement and process of selection in which the petitioners had participated, had commenced later in point of time to the issuance of the instructions.

In view of the facts and submissions noticed herein above, this Court deems it appropriate to dispose of the instant writ petition with a direction to respondent No.2 to consider the claim of the petitioners strictly in accordance with law as also in the light of the instructions noticed herein above and to take a final decision on the legal notice dated 24.12.2014 at Annexure P-12 by passing a speaking order within a period of two months from the date of receipt of a certified copy of this order.

Disposed of.

09.02.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**