

Case No. : C. W. P.No. 7734 of 2012

Date of Decision : July 13, 2015

Narinder Singh Petitioner

Vs.

Punjab State Power Corporation
Limited and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. R. K. Arora, Advocate
for the petitioner.

Mr. Vishal Chaudhri, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

Affidavit on behalf of the respondents, filed today in Court, is ordered to be taken on record. Copy of the same has been supplied to the counsel opposite.

Through the present writ petition, the petitioner seeks appointment to the post of Assistant Manager/HR in the respondent –

Punjab State Power Corporation Limited (hereinafter referred to as – the Corporation).

Through advertisement no. CRA-273/2011, the respondent Corporation sought applications for filling up of various posts including 32 posts of Assistant Manager/HR. As per the advertisement, the reservation of posts was for candidates of Punjab Domicile only and the category-wise and discipline-wise actual number of reserved posts were to be worked out on the basis of a running roster as per the reservation policy of Government of Punjab and adopted by the respondent Corporation from time to time. Freedom Fighter category was given as one of the reserved categories. The advertisement further provided that the selection would be on the basis of marks secured in a written test.

On the strength of a Certificate by the competent authority, in pursuance to the above referred advertisement, the petitioner applied for consideration of his candidature under the Freedom Fighter quota. As the petitioner fulfilled the prescribed qualifications, the petitioner was issued Admit Card, on the basis of which he appeared in the written test held on 24.03.2012. The declaration of results of the written test revealed that the petitioner secured 64 marks in the same. When appointments were made, the petitioner came to know that no appointment was made under the Freedom Fighter category even though the petitioner was eligible and available. Even in the General Category, the last person who had been

appointed, had secured 54.5 marks i.e. 9.5 marks less than the petitioner. It is in this background that the present writ petition was filed by the petitioner for the reliefs referred to above.

Vide order dated 03.05.2012, as an interim measure, this Court had directed that one post of Assistant Manager/HR be kept vacant till further orders.

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

The break-up of the 32 posts advertised through the advertisement in question, as informed by the learned counsel appearing on behalf of the respondents, is as under :-

General Category	:	16
Scheduled Castes	:	08
Backward Classes	:	03
Ex-servicemen	:	03
Sports Category	:	01
Physically Handicapped	:	<u>01</u>
Total	:	<u>32</u>

From the above, it is clear that at the time when the posts were advertised, there was no post available to be filled up from the Freedom Fighter quota, but this fact was not revealed by the respondent Corporation in the advertisement. Rather, the advertisement made a specific reference to Freedom Fighter quota as one of the reservation quotas. Relying on the

above, the petitioner applied for consideration of his candidature under the Freedom Fighter quota, but as there was no post available, his name was not considered for appointment under that quota.

The above action on the part of the respondent Corporation can be termed nothing but as most arbitrary. The break-up of available posts should have been given in the advertisement. Further, when there was no post available under the Freedom Fighter quota, no application qua that quota should have been invited. Due to this arbitrary action on the part of the respondent Corporation, the petitioner applied in the Freedom Fighters' quota for consideration of his candidature, but as there was no post under the quota, his application has virtually gone unconsidered. The petitioner was made to apply under the Freedom Fighters' quota by the respondent Corporation even when it was known to the respondent Corporation that there was no post available in that quota. In the peculiar facts of the case, as noticed above, the petitioner's application, having not been considered at all under the reserved quota, under which he had applied, should at least have been considered in the General Category. Admittedly, the last person appointed under the General Category is much lower in merit than the petitioner and that one post of Assistant Manager/HR is available, which was kept vacant under orders of this Court.

In view of the above facts, the present writ petition is allowed with a direction to the respondents to appoint the petitioner as Assistant

Manager/HR w.e.f. the date when the last person in the General Category was appointed, with all consequential benefits.

**(DEEPAK SIBAL)
JUDGE**

July 13, 2015
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