

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20418 of 2011 (O&M)
Date of Decision: 10.05.2016

Sukhmander Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. An affidavit has been filed by the State admitting that vacancies are available and still lying unfilled from the selection process 2009 the result of which was declared in July 2011. The petitioner was a candidate for the post of Senior Laboratory Attendant. He belongs to the Boria Sikh Caste which falls in the reserved category of SC (R&O). While applying for the post he wrote in the application form by mistake that he belongs to SC (Mazbi & Balmiki) while the caste certificate produced in support of application from reserved quota confirmed that the petitioner in fact belongs to SC (Ramdasia & Others).

2. The petitioner's candidature has been rejected on the ground that he has declared himself to be SC (M&B) and, therefore, he does not come within the reserved quota of that category on merit. The fact remains that the birthmark of caste does not change by an innocuous mistake

committed on paper so long there is conclusive evidence of caste certified by the authority competent in State Government to issue caste certificates. The mistake is also not one which is incurable. It is also not that the petitioner impedes on any one's right especially when the affidavit presently filed by the State confirms that there are vacancies even in the category of the reservations meant for both SC (R&O) and SC (M&B). It is trite law that if the reason assigned in an administrative order is found to be irrelevant, arbitrary or unreasonable or not based on fact then the order collapses since it cannot be sustained on the reasoning supplied extraneous to the one assigned to in the order.

3. The case of the petitioner was rejected at the time of scrutiny on the face of the application form. The noting scribed on the application form visiting adverse consequences on a candidate becomes an impugned order when challenged in Court. Therefore, the noting on the application form rejecting the candidature of the petitioner deserves to be set aside because the mistake is an oversight and too much emphasis does not deserve to be placed on it. Substantial justice should not be allowed to be defeated on a mere technical defect.

4. For the above reasons, I find substantial merit in this petition warranting interference in writ. The impugned noting on the application form presented at the time of scrutiny is set aside. A direction is issued to the respondents to consider offering appointment to the petitioner as Senior Laboratory Attendant after completion of the formalities.

5. The entire exercise is directed to be completed within two months from the date of supply of the order in certified copy. If the

petitioner is appointed to service, the monetary benefits will remain restricted from the date of joining. However, he would take seniority from his batch with notional fixation of pay bringing salary at par with the batch mates.

(RAJIV NARAIN RAINA)
JUDGE

10.05.2016
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