

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

CWP No.16000 of 2017

Date of decision : 24.08.2017

Hardeep Kaur and another

.....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Madhav Pokhrel, Advocate for the petitioners.

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DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to select and appoint the petitioners as Multipurpose Health Workers (Female)/ANM in the category of Vimukt Jatis/Bazigars by granting 2% reservation in pursuance of notification dated 20.12.2001 out of the posts, which have been left unfilled.

Briefly, the facts of the case as made out in the present petition are that both the petitioners belong to Bazigar caste. They applied for the post of Multipurpose Health Workers (Female) in the category of SC (R&O), which were advertised vide advertisement dated 18.01.2014. Initially, total 538 posts were advertised but subsequently, vide corrigendum dated 26.02.2014, the number of posts were reduced from 538 to 412. Thereafter, a public notice was issued on 22.04.2014 for conducting

the written test on 11.05.2014. Both the petitioners appeared in the written test and secured 38.75 and 31 marks, respectively. Thereafter, respondent-department uploaded a public notice on 07.07.2014, whereby the schedule for skill test was notified. The candidates who qualified the written test and secured upto 46 marks were called for skill test, but as the marks of both the petitioners in the written test were less than 46, they were not included in the said list. After completion of the skill test, the respondent-department uploaded the combined merit list by way of public notice on the official website. Thereafter, the meritorious candidates were called for counseling from 20.08.2014 to 22.08.2014 vide public notice dated 11.08.2014 and also uploaded category-wise list of selected candidates.

The petitioners finding themselves to be aggrieved, have filed the present writ petition on the ground that they belong to Bazigar caste and had applied for the post of Multipurpose Health Workers (Female). They are claiming their right over 16 posts which have remained unfilled in the category of SC (Ex-serviceman) and SC (Sports-persons) under 2% quota in view of notification dated 20.12.2001.

Learned counsel for the petitioners submits that the petitioners are entitled for consideration against the post of Scheduled Caste in the category of Vimukt Jatis/Bazigars under 2% reservation in view of notification dated 20.12.2001 but inspite of sending legal notice and representation, they have not been considered. Learned counsel also submits that the case of the petitioners is squarely covered by decision of CWP No.16983 of 2012.

Heard arguments of learned counsel for the petitioners and have also perused the documents available on the file including the advertisement/notice, corrigendum, public notices issued by the respondent-department from time to time regarding the candidates who qualified written test, skill test and thereafter, ultimately their selection as per merit.

Admittedly, the advertisement was issued on 18.01.2014 and the petitioners applied for the said posts. They qualified the written test by securing 38.75 and 31 marks, respectively. However, they were not called for the skill test because the candidates who secured upto 46 marks in the written test were included in the list meant for the skill test. Result of selected candidates was declared on 28.11.2014. However, the petitioners never challenged the selection process or criteria. After a long delay of more than three years, the present petition has been filed for consideration of their names against unfilled posts meant for SC (M&B) category. Neither in the writ petition nor in the arguments raised by learned counsel for the petitioners the delay has been explained. Simply by saying that representations were made by the petitioners for consideration of their names and all efforts have been made to justify the delay. However, the cut off of 46 marks was there and all those candidates who secured upto 46 marks in the written test were called for skill test. A specific query was raised by this Court at the time of hearing of arguments on 24.07.2017 about maintainability of the petition filed after a delay of more than three years. Thereafter, an objection was also raised as to how the petitioners have a right for consideration and to challenge the selection when they have

participated in the selection process. In spite of availing sufficient time, learned counsel for the petitioners has not been able to convince the Court.

An identical case came up for hearing before this Court titled as Navjeet Singh Vs. Punjab State Electricity Board and others, CWP No.16552 of 2017 decided on 28.07.2017. Petitioner in that case was having grievance that he belongs to Scheduled Caste category (Mazhabi Sikh/Balmiki) and was having right to be considered for the post of Junior Engineer Grade-II (Electrical) against one out of total 25 posts reserved for Mazhabi Sikh and Balmiki candidates. In that case, total 200 posts were advertised by respondents and out of said posts, 50 posts were reserved for Scheduled Caste candidates. Some posts remained unfilled. The claim of the petitioner was considered and he was not found to be entitled for appointment and ultimately, his claim was rejected which was challenged in the writ petition. Said petition was dismissed vide order dated 28.07.2017 on the ground of delay and also by observing that the petitioner had participated in the selection process and when his name was not found in the list of successful candidates, he could not be allowed to question the selection criteria or the process.

In the present case also, the advertisement was issued in the year 2014 and selection has been concluded in the same year. The petitioners have approached this Court after delay of more than three years. Moreover, the petitioners were not considered for appointment as they were having less marks than the last selected candidate. The petitioners participated in the selection process and finding themselves ineligible to be

appointed, have approached this Court for consideration against the remaining posts which could not be filled up and as such, they have no right to be considered.

There is no merit in the contentions raised by learned counsel for the petitioners and the petition being devoid of any merit is hereby dismissed.

24.08.2017

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No