

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

Civil Writ Petition No.16226 of 2017

Date of decision: 26.07.2017

Mahender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Ashok Bhardwaj, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 2.6.2017 (Annexure P/5) whereby the State has prepared combined merit list and recommended the names of the candidates belonging to the same category due to non availability of eligible candidates in various categories. Resultantly, vacant seats which were not filled up from the reserved categories on account of lack of eligible candidates were directed to be filled up from persons belonging to the same categories.

The dispute herein pertains to vacant seats of the Outstanding Sports Persons (BC-A) category (hereinafter referred to "OSP(BC-A)" in pursuant to the advertisement No.2 of 2012 (Annexure P/1) for the post of Primary Teacher and consideration for appointment is sought against the same.

A perusal of the paper-book would go on to show that as per the said advertisement (Annexure P/1) last date for applying was 8.12.2012. The petitioner had applied for the post of Primary Teacher against 1138 seats of BC-A category and he had obtained 43.22 marks in the academics.

At the time of interview, he claims to have produced original Sport Gradation Certificate (Annexure P-2-colly) so that he could be considered in the category of OSP(BC-A) category. It is his case that he obtained 43.22 marks in academics and was granted 13 marks in the viva and thus had obtained total marks 56.22 (Annexure P/3). His further case is that in the category of OSP(BC-A), the last selected candidate had obtained 46.51 marks and only 11 candidates have been selected and 25 seats were left vacant. It is thus his case that the petitioner having obtained higher marks than the last candidate selected in the said category had wrongly been left out and therefore, filling up unfilled seats from the BC-A category vide impugned order is not justified.

The argument raised by the counsel for the petitioner is only to be noticed and is to be rejected. Admittedly the petitioner had applied under BC-A category. The certificate (Annexure P/2) which has now been relied upon is even otherwise dated 16.1.2014 which is much after the cut off date i.e. 8.12.2012. A perusal of the advertisement (Annexure P/1) would also go on to show that the Sports Gradation Certificate issued by the competent authority for outstanding sports person and the BC certificate issued by the competent authority had to be produced at the time of interview. It is thus for obvious reason that when the petitioner appeared before the authorities they have not taken into consideration the said sports certificate or considered the petitioner under the OSP(BC-A) category when he had never applied in the said category and neither had the relevant sports certificate at that time. It is settled principle that a cut off date has sacrosanctity and cannot be violated with impunity. If the argument of the counsel is to be accepted, it will lead to candidates approaching the

authorities time and again against different categories on the ground that they had got the essential certificates after the cut off date.

Reference has been made to the judgment of the Apex Court in **Dheerender Singh Paliwal Vs. UPSC 2016(4) Scale 573** in support of the submission that technicalities should not come in the way. The said judgment would not be applicable to the present case as it is to be noticed that it was not a case of not possessing the required essential qualification at the cut off date but was of only not enclosing the certificate in proof of added qualification. Accordingly, it was held that the appellant should have been called upon to produce the required certificate in proof of such essential qualification. Therefore, the said judgment is not applicable to the present case in any manner since in the present case the petitioner never possessed the essential qualification of Outstanding Sport Persons on the cut off date and had not even applied in the said category.

Accordingly, finding no merit in the present writ petition, the same is dismissed in limine.

July 26, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No