

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

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C.W.P No. 21865 of 2014 (O&M)

Date of decision: 26.10.2017

Khush Nasib

...Petitioner

Vs.

State of Haryana & Ors.

...Respondents

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

Present: Mr. Ashish Chaudhary, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral).

The petitioner seeks quashing of the order dated 02.06.2014 (Annexure P/10) whereby the claim to the post of the steno-typist (Hindi) under the Physically Handicapped (Ortho) has been rejected. The reason for rejection given out by the respondent-Commission is that the petitioner had on an earlier occasion given an affidavit dated 07.11.2012 that he should be considered in the case of S.C category instead of PHC (Ortho) category. On account of not having secured in S.C category he could not be allowed to change his category and accordingly, representation dated 07.11.2013 has been rejected. The said representation was to be decided in view of the orders passed in C.W.P No. 3852 of 2014 when the petitioner had earlier approached this Court and directions were issued on 03.03.2014 (Annexure P/9) to decide the same.

A perusal of the record would have gone to show that vide advertisement No. 3/2010 dated 15.09.2010 (Annexure P/1), 102 posts of steno-typist in Hindi were advertised in various Boards, Corporations and

Departments Out of them 20 posts were of S.C category. A corrigendum was issued on 23.02.2011 (Annexure P/2) whereby a number of seats were increased to 183 posts and for the S.C category to 35 from 20 posts. In addition 03 seats were also advertised for the category under Physical Handicapped Candidates (Ortho) (PHC). It is not disputed that the petitioner is one such candidate having 70% permanent handicap as per the certificate issued by the office of Civil Surgeon, Rohtak. The certificates of both the reserved categories are annexed as Annexure P/3 and P/4. It is his case that he had applied against both the categories and on account of the type test having been held between the months of August to October 2011 and April to May 2012, he had duly qualified. On account of being called for interview, he had been asked to opt for one category and, therefore, he had appeared in the interview under the S.C category. His name did not figure in the selected candidates and he, accordingly, moved the representation dated 07.11.2013 (Annexure P/8) that he should be considered under PHC (Ortho) category as only one candidate had been selected and 2 seats were lying vacant. Thereafter, he had approached this Court resultantly the impugned order had been passed, in view of the directions given to consider his case.

In defence the State, has justified the reasoning given in the order as noticed that the petitioner had given an affidavit dated 07.11.2012 that he could be considered only against one category and, therefore, having failed to make the cut and having only achieved 36.70 and the last candidate having got 40.80, in the S.C category he had remained unsuccessful and, therefore, now his case could not be considered in the physically handicapped category.

On the strength of having a physically handicapped certificate, he was duly entitled to appear under the said category and he was also eligible under the S.C. category. On account of him clearing the type test at the initial point an affidavit had been taken from him that he could be considered under only one category and therefore he has not been considered in the physically handicapped category for which there is no such denial that he would not be eligible. In fact the perusal of the impugned order would go on to show that initially he had qualified in the PHC category. The denial is thus not been justified especially keeping in view that fact that the petitioner had applied for both the categories and had been short-changed and asked to apply only against the one in which he had not qualified.

Admittedly, two posts are still lying vacant for physically handicapped candidates. In such circumstances, this Court is of the opinion that the petitioner's case be re-considered for appointment to the post of steno-typist (Hindi) in the Physically Handicapped Category (Ortho).

In view of above, the present writ petition is allowed and the order dated 02.06.2014 (Annexure P/10) is quashed.

Accordingly, the respondent-Commission shall make appropriate recommendation to the State Government for appointment of the petitioner to the post of Hindi Steno-Typist. Needful be done within a period of two months.

October 26, 2017
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No