

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

CWP No.19077 of 2017

Date of Order: 08.09.2017

Mitesh Kumar

....Petitioner

Versus

Haryana Staff Selection Commission

....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sandeep Parkash Chahar, Advocate
for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

AMOL RATTAN SINGH, J (ORAL)

The order issuing notice of motion on 24.8.2017 is reproduced as follows, the petitioner having applied for the post of a Field Inspector (Store), in response to advertisement no.6/2016 (Annexure P/1):-

“Learned counsel for the petitioner submits that the petitioner had applied for the post of a Field Inspector (Store), in response to advertisement No. 6/2016 (Annexure P-1), against the vacancies reserved for sports persons. However, subsequently, he came to know that as his participation at the State level was at a stage when he was below 14 years of age, such participation did not entitle him to be considered for the post under the sports category. He submits that the petitioner could not have applied both under the sports category as also the reserved category as regards his backward class status and therefore, though he belongs to the BC (A) category, he had not applied under that category at that stage.

Upon notice having been issued, Sh. Doon, AAG, Haryana, submits that the petitioner having applied in a wrong category, cannot be now allowed to change his category to BC(A).

Whereas that would be a basic principle to be adhered to, however, in the present case, it seems that the petitioner applied under a bonafide impression that he was covered by the Sports Policy of the Government, by which 3% horizontal reservation is provided to outstanding sportspersons and therefore he applied under that category, he having played in a State level competition in the year 2003-04, in the age group of under 14s, having represented District Sirsa in cricket. Though the reasoning of the petitioner otherwise is not in terms of the Sports Policy of 2009, which has not been annexed with the petition but has been looked at in another case bearing CWP No. 11816 of 2013 (which was listed on 07.09.2017 before this Court), however, the petitioner having otherwise applied for the post in question within time, obviously there would have been no reason for him to not apply in the BC(A) category, if he knew that his application was going to be rejected on the ground of his not being covered by the sports policy.

Therefore, once the petitioner had applied in time, but had simply given a wrong category under which he was applying, I see no prejudice in allowing this petition to the extent that if he, in the category BC(A), has obtained sufficient number of marks in the written test, as applicable to candidates of that category, for being called for an interview, he would also be interviewed in that category, i.e BC(A). A certificate showing that he belongs to that category has been annexed as a part of Annexure P/2 with the petition, which of course would be subject to verification.

Learned State counsel has also submitted that the

petitioner not having applied under the specific category that he is now seeking to be considered for, it would prejudice the rights of atleast one candidate of the BC(A) category, who had applied under the correct category within time.

Though that argument is also not fallacious, however, for the reasons already given, that the petitioner having applied within time, considering himself to be eligible under one particular category but he being found to be not eligible in that category, but he being eligible in a different category, the petition is allowed, as above stated.

September 08, 2017
manoj

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No