

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26150 of 2015

Date of Decision:10.11.2017

Sindraj Kumar

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Gaurav Gupta, Advocate for
Mr. Digvijay Nagpal, Advocate for the petitioner.

Mr. B.S. Sewak, Addl. A.G. Punjab.

Ms. Suman Devi, Advocate for respondent No.3.

P.B. BAJANTHRI J. (Oral)

Matter relates to selection and appointment to the post of peon under Sportsman category.

On 28.7.2017, following order is passed:

*“In the instant writ petition, petitioner is a candidate for the recruitment to the post of Peon under Sportsman category pursuant to advertisement vide Annexure P-2 dated 02.01.2015. For the purpose of filling up of one post under Sportsman quota, criteria was laid down by authorities only on 02.02.2015 i.e. much after issuing advertisement. In other words, it amounts to change of game. In view of Supreme Court decision in the case of **K. Manjusree v. State of A.P. and another**, reported in (2008) 3 SCC 512, change of criteria subsequent to issuance of advertisement is impermissible. Whatever criteria available as on the date of advertisement, the same shall have to be followed. In the present case, it is evident that respondents have prescribed certain criteria for sports persons on 02.02.2015 pursuant to advertisement dated 02.01.2015. Criteria is candidate must have won National Championship Representing the State of Punjab or has won*

first, second and third position at International Sports meet. Undisputedly, criteria for sports quota was not available as on 02.01.2015. At the same time, perusal of Government notification dated 01.02.1988 issued by the Government of Punjab the criteria for sports persons is candidate must have attained first, second and third position in a District Level Championship organized by the concerned District Level Association affiliated to the State Level Association in the respective discipline. It was also noticed that pursuant to advertisement dated 02.01.2015 one post reserved for sportsman quota has not been filled up. Learned counsel for the respondents vehemently contended that persons who have applied under sports quota including petitioner, their cases have been considered and for having not fulfilled criteria laid down on 2.2.2015 vide Annexure P-6, their names were rejected.

At this stage, learned counsel for respondent No.3 submitted that petitioner has been awarded 4.2 marks under sports quota based on interaction of the Committee members where the petitioner do not fulfill the criteria laid down by the Committee on 02.02.2015 to the extent that one must have National Championship Representing the State of Punjab. Admittedly, the petitioner do not possess national Championship. On the other hand, he has District Level Sports certificate. With reference to these factual aspects it is stated that petitioner has been awarded 4.2 marks. No reasons have been assigned as to under what circumstances petitioner has been awarded 4.2 marks when he does not fulfill basic requirement of National Championship as criteria laid down on 02.02.2015. Perusal of the records, it is evident that entire process of selection is contrary to the advertisement. In other words, criteria has been laid down subsequent to the advertisement. In view of above Supreme Court decision, any criteria laid down subsequent to the advertisement, the same cannot be taken into consideration. In view of these facts and

circumstances, counsel for respondents are hereby directed to get instructions to accommodate petitioner against one of the peon post under Sports category. If the vacancy of Peon post is not available in that event create supernumerary post of peon and consider petitioner's name for appointment.

List this matter on 01.09.2017.”

Pursuant to the aforesaid order, competent authority-District and Sessions Judge, Sangrur, issued order of appointment to the petitioner vide communication bearing No.6784/EB dated 11.10.2017.

In view of these development, present petition do not survive for consideration.

Petition stands disposed of accordingly.

10.11.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**