

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

CWP No. 25128 of 2017
Date of decision: 05.12.2017

Harjeet Kaur

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. H.S. Kasan, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of the final result/merit list dated 23.02.2017 (Annexure P-5) whereby, the private respondents have been selected as PGT Punjabi. The cut off, as per the result, has been shown at 126 marks for the general candidates for which 80 candidates have been selected. The challenge is raised that higher rank meritorious candidates of reserved category have been adjusted in the seats of general category and, therefore, the list of selected candidates should be quashed.

The advertisement was issued on 28.06.2015 (Annexure P-1) for which the petitioner applied and sat in the written examination on 03.03.2016. The result was declared on 23.10.2016 (Annexure P-2) and the petitioner was called for interview and the cut off was 102 marks. The petitioner being successful, was also called for interview. Litigation had ensued in CWP No. 22746 of 2016, Satish Kumar Malik and others vs. State of Haryana and others, decided on 15.11.2016 and directions were issued that the scrutiny of documents be held firstly and thereafter interview should take place by excluding the ineligible candidates. Resultantly, the petitioner

was called for interview after scrutiny was held on 06.12.2016 and she appeared on 28.12.2016. The final list was thereafter prepared in which it is alleged that respondents no. 4 to 28 are candidates of reserved category.

Counsel for the petitioner has vehemently relied upon the judgment of the Apex Court in ***Civil Appeal No. 3609 of 2017, Deepa E.V. vs. Union of India and others*** decided on 06.04.2017. On the last date i.e. on 13.11.2017, he had been given liberty to amend his pleadings to bring the case within the ambit of the observations of the Apex Court since no specific averments had been made as to whether the selected candidates had taken any relaxation of age limit, experience, qualifications etc. so that it could be said that they are not liable to be adjusted in the general category being rendered ineligible as such on account of the fact that they were over age or did not have the necessary qualification which was there for the general category. No such amendment has now been made by the petitioner. The only argument now raised is that the candidates would have paid lesser fees as such.

The Apex Court in the said case was dealing with an appeal wherein reserved category candidate was seeking consideration in the general category and which had been denied by the Courts below on account of the fact that she had availed the age relaxation. The Apex Court had upheld the said orders by placing reliance upon the proceedings dated 22.05.1989 and 01.07.1998 to hold that where reserved category candidates have taken benefits of age limit, experience, qualification, then they are to be counted against the reserved vacancies and resultantly, it was held that there is an express bar that reserved category candidates who have availed relaxation could not be considered for general category candidates.

In the present case, neither any such pleadings have been incorporated. It is settled principle in view of the law laid down in *Indra Sawhney and others vs. Union of India and others, 1992 (supp) 3 SCC 217* and *R.K. Sabharwal and others vs. State of Punjab and others, 1995 (2) SCC 745* that the benefit of merit will go to the reserved candidates since they have made the cut without being considered against the reserved vacancies and on their own merit. The petitioner having scored only 124 marks, therefore, has not made the cut.

Resultantly, keeping in view the above, this Court is of the opinion that no case is made out to set aside the selection as such and the present writ petition is accordingly dismissed in limine.

05.12.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No