

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-27746-2017

Date of decision : 08.12.2017

Anuj

... Petitioner

Versus

States of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Vikas Mor, Advocate
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G. Haryana.

AMOL RATTAN SINGH, J.(ORAL)

The petitioner in this petition is seeking a writ of mandamus that he be called for an interview in the selection process for appointment of Taxation Inspectors, pursuant to the advertisement Annexure P-1 having been issued, and he having applied under the ESM category.

Learned counsel for the petitioner submits that though the petitioner may not be eligible in the ESM category, as he had availed of the same benefit for recruitment as a Constable in the Haryana Police, and to that effect he has also represented to the Secretary of the respondent Commission, however, he cannot be ignored for being considered for appointment in the general category.

Upon directions earlier issued by this Court, the result sheet of the petitioner has been produced in a sealed cover, upon opening which it is seen that he has scored 178 marks out of 200, with the last candidate called for an interview in the general category having obtained 170 marks (and in the ESM category 148 marks).

Learned State counsel submits that the petitioner having applied under the ESM category, with there being a note in the advertisement that a candidate who wishes to apply must see whether he has applied in the correct category or not, his candidature has to be rejected.

That contention is rejected by this Court, in view of the fact that even if a person who has applied in the reserved category obtains marks higher than the last candidate who had applied in the general category, such candidate of the reserved category has to be considered in the general category, in terms of the ratio of the judgment of the Supreme Court in *Indra Sawhney vs. Union of India and others, AIR 1993 SC 477*. Consequently, simply because the petitioner initially applied in the ESM category but he had availed the benefit of the same in for selection as a Constable and therefore would not be entitled to the same benefit in a second selection, he cannot be denied consideration as a candidate in the general category; in which category undoubtedly he has obtained more marks than the last candidate called for an interview.

This petition is therefore allowed and the respondents are directed to consider the candidature of the petitioner in the general category, for the post in question. The interviews are stated to have concluded within the past 2 days. The petitioner be hence now called for an interview and till such time that he is not interviewed, one post shall be kept reserved for him.

(AMOL RATTAN SINGH)
JUDGE

December 08, 2017.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No