

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

CWP No.1201 of 2017

Date of Decision: 26.10.2018

Siya Ram

.....Petitioner

Vs.

Haryana Staff Selection Commission

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Pankaj Katia, Advocate, for the petitioner.

Mr.Harish Rathee, Sr.DAG, Haryana.

RITU BAHRI, J. (ORAL)

Petitioner is seeking direction to the respondent-commission to decide the legal notice dated 20.12.2016 (Annexure P-6) within a time bound manner and further direction to the respondent to consider the candidature of the petitioner under the Economically Backward Person in General Caste Category (EPBG) for the post of Male Constable (GD) instead of General Category.

Petitioner has applied for the post of Male Constable vide advertisement No.2/2013 which was advertised by the Haryana Police Recruitment Board, Panchkula, under EBPG category vide application dated 09.12.2013 bearing registration No.10210308747. Thereafter, petitioner participated in the Physical Screening Test and qualified and thereafter, he was called for interview. This advertisement was

Section Commission after its formation issued a fresh advertisement for filling up the posts of male constable. Petitioner has again applied online under the EBPB category after following due procedure and his application obtained Form No.100005237. It has been further submitted that petitioner was not able to retain a copy of the application form as the same was an online process. Now the petitioner obtained a copy (Annexure P-3) through the official web site of the respondent, which shows the category of the petitioner as general. In pursuance thereof, petitioner was called for fresh Physical Screening Test, knowledge test and physical measurement test. However, petitioner came to know that his candidature is being considered under the General Category and not under the Economically Backward Person Category. A certificate showing the status of the petitioner under the EBPB category issued by the competent authority has been appended with the case file as Annexure P-4. Thereafter, petitioner made representation (Annexure P-5) dated 02.12.2016 to the respondent in order to seek redressal of the grievance and for consideration of his category under the EBPB category but no action has been taken in this regard. Thereafter, he made a legal notice dated 20.12.2016 (Annexure P-6) but despite the lapse of nearly 1 month, the petitioner has not heard anything from the respondent department about the redressal of his grievance.

Upon notice, written statement has been filed by respondent/Commission stating therein that petitioner has applied under

General Category and has participated in the selection process under General Category. Now the petitioner is estopped by his act and conduct at this belated stage and his category cannot be changed. He made a reference in the case of Baljinder Singh Vs. State of Haryana passed in CWP No.18442 of 2014 whereby, during process of selection, petitioner intends to change his category from General to Ex-service Man(ESM). It is held that such a change of criteria during the process of selection is impermissible.

The Co-ordinate Bench of this Court in the case of Mitesh Kumar Vs. Haryana Staff Section Commission passed in CWP No.19077 of 2017 has considered the case where, wrong category was given by the candidate. In that case petitioner had applied under a bonafide impression that he was covered by the Sports Police of the government by which 3% horizontal reservation is provided to outstanding sport persons. Actually, he is belonging from BCA category and he had given the certificate of BCA category at the time of filing the application. This writ petition was allowed and direction was given to the respondent to consider the petitioner in BCA category.

A reference can also be made to the judgment of this Court in the case of Ankita Sheoran Vs. State of Haryana passed in CWP No.19614 of 2017 whereby, the petitioner wrongly applied for the post of PGT (Computer Science) in the category of ESM(Dependent) General Category on account of the fact that his father is a serving as Army Officer and subsequently, the writ petition was allowed by

giving direction to the respondents to consider the case of the petitioner under General Category.

In the present case, petitioner pursuant to the advertisement 2/13 had applied the post under Economically Backward Person in General Caste Category (EBPG) and even in the selection process, he had given this certificate at the time of scrutiny and he had also made a representation (Annexure P-5) to change the category from General Category to EBPG but all in vain.

Learned counsel for the petitioner submits that the last candidate belonging from EBPG category has got 48 marks, as such, the present writ petition may be allowed by giving direction to the respondent/authority to consider the case of the petitioner as he has obtained 60.45 marks out of total 90 marks in EBPG category.

The judgment referred in the case of Baljinder Singh supra is not applicable in the present case petitioner had applied to the post under EBPG category in the previous application vide advertisement No. 2/2013 and he participated in the scrutiny of document and interview test. Thereafter, cancellation of advertisement No.2/2013, and fresh advertisements was again published in which he also chosen the category EBPG the due to technical mistake General Category option has been taken by the computer. Even, petitioner has made legal notice (Annexure P-6) for change the category but no action has been taken by the respondent/authority in this regard.

In view of the above, and judgment referred above in the case

of Mitesh Kumar (supra) and Ankita Sheoran (Supra), present writ petition is allowed by giving direction to the respondent/Commission to consider the case of the petitioner under EBPB category for the post of Male Constable (GD) if, he secures higher marks in the category of EBPB.

(RITU BAHRI)
JUDGE

26.10.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No