

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

CWP No.3761 of 2014 (O&M)

Date of decision: 20.02.2018

Gurvinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Kapil Kakkar, Advocate for the petitioner(s).

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

Mr. Nitin Kaushal, Advocate for respondent No.2.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks issuance of directions to the respondents to allow the petitioner to join as an Accounts Clerk in the Punjab State Ware Housing Corporation forthwith in view of the appointment order dated 16.03.2012 (Annexure P-3).

Learned counsel for the petitioner asserts that in response to the advertisement dated 17.10.2011 (Annexure P-1), the petitioner had submitted his candidature for the post of Accounts Clerk and ultimately on being found eligible, he was issued conditional appointment letter dated 16.03.2012, vide Annexure P-3. However, subsequently, the petitioner was not allowed to join on the ground that the scheduled caste certificate (Annexure P-2) had not been issued by the competent authority of the State of Punjab, whereas the same had been issued by the State of

Haryana. Father of the petitioner was an employee of the Punjab Government who has now since retired and is a pensioner of the Punjab Government and in view of the letters issued by the Personnel Department, Punjab from time to time it has been provided that the children and wards of the Punjab Government employees are entitled to the benefits of the reservation as per the State Policy. In support of his contentions, learned counsel cites **Union of India and others Vs. Shantiranjan Sarkar** 2009(3) RSJ 155 and **Puducherry S.C. People Welfare Association Vs. Chief Secretary to Govt., Union Territory of Pondicherry and others**, 2014(4) SCT 378.

On the other hand, learned State counsel and learned counsel for respondent No.2 admit the factum that a conditional appointment letter dated 16.03.2012 (Annexure P-3) was issued to the petitioner, however, as per Clause 7(a) of the advertisement, the candidates selected in the written examination have to produce their original certificate/testimonials in person as and when required by the Punjab State Warehousing Corporation, Chandigarh and the SC/ST category certificate should be in accordance with the instructions of the department of Welfare Punjab. Learned counsel further state that the offer was subject to the verification of caste/academic certificate and other certificates by the concerned department. After examining the reservation certificate of the petitioner, he was not found eligible as the caste certificate of the petitioner had not been issued in the prescribed format by the competent authority of the State of Punjab, therefore, dismissal of the present

petition has been prayed for.

Heard, learned counsel for the parties and perused the record minutely.

7. Candidates selected in the written examination shall;

“(a) Produce their original certificates/testimonials in person as and when required by the Punjab State Warehousing Corporation, Chandigarh. The sports persons seeking reservation under sport quota shall submit Sports Gradation Certificate issued by Director Sports, Punjab, as per latest instructions and the SC/ST category certificate shall be in accordance with the instructions of the department of Welfare, Punjab and the certificate for the Ex-servicemen shall be in accordance with instruction of the concerned Department. Candidates already in service to submit 'No Objection Certificate' from their Departments.”

As the petitioner had applied for the post against the reserved category, therefore, as per above said Clause, the petitioner has to submit caste certificate confirming the clause indicated. The certificate held by the petitioner was issued by the authority of the State of Haryana, vide Annexure P-2. Furthermore, the Government of India issued policy/instructions from time to time, whereby as per instructions No.BC-16014/1/82 SC & BCD 1 dated 06.08.1984 (Annexure R-2) circulated to all the States clarified that the person on migration from the State of his origin will not get the benefit from the State where he has migrated. These instructions has been reiterated by the Department of Welfare, Government of Punjab, vide memo No.1/9/2011-RC1/878 dated 21.10.2011, whereby it has been clarified that the SC/ST person on migration from the State of his origin to another State will not lose his status as SC/ST but he will be entitled to the concession/benefits

admissible to the SC/ST from the state of his origin and not from the State where he has migrated. The caste certificate of the petitioner was issued by the competent authority of the State of Haryana and in view of the above said instructions, the petitioner cannot take the benefit of reservation in the State of Punjab. The case law cited by the learned counsel for the petitioner are distinguishable on facts and does not apply in the present case.

In view of the above, finding no merit in the instant petition, the same is hereby dismissed.

20.02.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No