

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 3144 of 2019
Date of Decision: 11.02.2019

NAVEEN RAOPetitioner
VS.
STATE OF HARYANA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE HARNARESH SINGH GILL.

Present: Mr. Vikram Singh, Advocate,
for the petitioner.

Mr. Sandeep Moudgil, Addl. A.G., Haryana.

Mrs. Munisha Gandhi, Senior Advocate,
with Mr. Gaurav Chopra, Advocate,
for the Punjab and Haryana High Court.

Mr. H. N. Mehtani, Advocate,
for the respondent-HPSC.

RAKESH KUMAR JAIN, J. (ORAL)

The Haryana Public Service Commission (for short “Commission”), vide an advertisement No. 6 of 2016 dated 20.03.2017, initiated the process to fill up 109 posts of Civil Judge (Junior Division) in the Haryana Civil Service (Judicial Branch) for the year 2017 in various categories. The category-wise break-up of the vacancies mentioned in the said advertisement read as under:-

<i>Sr. No.</i>	<i>Category</i>	<i>No. of posts</i>	<i>Remarks</i>
1.	General	49	Out of these posts, 29 posts are being advertised for the second time.
2.	Scheduled Castes of Haryana	14	All posts are being advertised for the second time.
3.	Backward Classes (A) of Haryana	08	Out of these posts, 4 posts are being advertised for the second time.
4.	Backward Classes (B) of Haryana	05	Out of these posts, 02 posts are being advertised for the second time
5.	Economically Backward Person in General Category	08	Out of these posts, 05 posts are being advertised for the second time

6.	<i>Ex-Servicemen of Haryana</i>	16	<i>Out of these posts, 02 posts are being advertised for the fourth time, 04 posts are being advertised for the third time, 05 posts are being advertised for the second time.</i>
7.	<i>Physical Handicapped persons of Haryana</i>	09	<i>Out of these posts, 01 post is being advertised for the fourth time, 01 post is being advertised for the third time, 03 posts are being advertised for the second time.</i>
	Total	109	

The selection of suitable candidates for appointment in HCS (Judicial Branch) is to be made by holding the examination in three stages namely:- (i) Preliminary Examination, (ii) Main Examination, (iii) Viva-Voce. The object of the Preliminary Examination is for short-listing the candidates for the Main Written Examination. The marks obtained in the Preliminary Examination are not be counted towards final result. It is also provided in the advertisement that the candidates equal to 10 times of the number of vacancies advertised, selected in order of their merit in the respective categories would become eligible to sit in the Main Written Examination.

The Commission also issued a corrigendum dated 27.08.2018 in respect of the advertisement No. 6 of 2016 as per which number of posts were reduced from 109 to 107. The petitioner had applied in the Backward Classes (B) of Haryana [for short “BC(B) Category”], appeared under the Roll No. 25850 in the preliminary examination held on 22.12.2018 and has secured 286.4 marks. But the petitioner was not called for taking the Main Written Examination because his marks were less than the cut off marks. He made a representation on 24.01.2019 for re-casting of the cut off marks of the General/Open (Un-reserved) category and the reserved categories alleging that the candidates in his category [BC (B)] who have secured more marks than the cut-off provided for the General/Open/Un-reserved category should

have been shifted to the general category instead of restricting them to their BC(B) Category. The case of the petitioner is that had the said candidates who have secured more marks than the candidates in the general category have secured, insofar as the cut-off marks are concerned then they should have been shifted to the General Category and then the petitioner would have come within the ambit of being called upon for taking the Main Written Examination.

Learned counsel for the petitioner has relied upon the decision rendered in the case of **Bhupinder Kaur and Others** Vs. **Vanita and Others**; **2011 (3) SCT 130** and a single bench judgement of this Court rendered in **CWP No. 18766 of 2012** titled as **Rajneesh Kumar** Vs **State of Punjab and others** decided on 12.03.2015.

After notice, respondents have put in appearance and it is argued that the issue raised by the petitioner is no more *res integra* because it has already been decided by this Court in the cases of **Paramveer Singh and Others** Vs. **Punjab Public Service Commission and others**; 2012 (1) SCT 542 and **Deepak Kumar** Vs. **State of Punjab and another**; 2014 (3) SCT 789. It is submitted by the respondents that the arguments raised by the petitioner would apply at the stage of final selection and not at the stage of qualifying examination/short-listing/screening test.

We have heard learned counsel for the parties and perused the record with their able assistance. The facts are not in dispute and thus, the only issue involved in this case is as to whether the reserved category candidates who have secured higher merits in the process of selection for appointment are to be considered for appointment against the general vacancies notwithstanding the fact that they have applied under the reserved

categories and the resultant slot under reserved category is to be occupied by the reserved category candidates next in the order of merit at the time of making appointment on the completion of the selection process or at the stage of qualifying examination/short-listing/screening test ?

It is an admitted fact that the petitioner had only qualified the preliminary examination which is a test meant for short-listing of the candidates to take the main written examination and the marks obtained in the Preliminary Examination are not to be counted towards the marks to be obtained in the Main Written Examination. It is only a process of short-listing of the candidates to be called upon for taking the main written examination. Thus, the judgements relied upon by the petitioner in the case of Bhupinder Kaur and others (Supra) and Rajneesh Kumar (Supra) are distinguishable because these judgements do not deal with the question involved in the present case rather the judgments relied upon by the respondents in the cases of Paramveer Singh and others (Supra) and Deepak Kumar (Supra) are squarely on the issue involved as in the case of Paramveer Singh and others (Supra) the question, posed hereinabove, has been answered in favour of the respondent against the petitioner holding that the principle that the reserved category candidates who secured higher merit in the process of selection for appointment are to be considered for appointment against the general category vacancies in spite of the fact that they have applied under the reserved categories and the slot vacated by them has to be given to the next candidate in the reserved category would apply at the time of making appointment on the completion of selection process and not at the stage of qualifying examination/short-listing/screening test. The said judgement i.e. Paramveer Singh and Others (Supra) has been followed in

the case of Deepak Kumar (Supra). Therefore, we do not find any error on the part of the respondents in restricting the candidates in their own category though they have secured more marks than the general category candidates and were not shifted to the General category, making a slot for the reserved category candidates.

With these observations, we do not find any merit in the present petition and the same is hereby dismissed though without any order as to costs.

February 11, 2018
Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	<i>/</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>/</i>	<i>No</i>