

**Sr. No.213
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.12357 of 2015 (O&M)

Date of Decision: 09.01.2019

Amanpreet Singh

... Petitioner

Versus

Punjab State Civil Supplies Corporation Limited and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Ranjivan Singh, Advocate,
for the petitioner.

Mr. Gautam Pathania, Advocate,
for respondent No.1.

Mr. Abhaypal Singh Gill, AAG, Punjab.

ARUN MONGA, J.(ORAL)

The present case is squarely covered by the settled law that if a Reserved Category person secures a position in General/Open Category then the General Category candidate has to make way for such a Reserved Category so as to satisfy quota on the seats meant for horizontal Reserved Category.

2. In the present case, succinctly, the facts are that the petitioner applied for the post of Inspector Grade-I in BC Category pursuant to advertisement issued by respondent No.1/PUNSUP. The petitioner secured 80 marks and he was placed at No.2 in the BC Category merit list. The candidate who stood at No.1 position in the BC Category merit list was awarded 87 marks which was concededly higher than the General Category candidate who was

at No.5 in the General Category merit list having secured 86 marks.

3. The petitioner being No.2 in the merit list has filed the present petition seeking a mandamus relying on the settled principles of law as enunciated in ***Indira Shawney Vs. Union of India and others reported as AIR 1993 SC 477*** as also placing reliance in the judgment rendered by the Division Bench of this Court in ***Ajit Singh Vs. State of Haryana and others reported as 2012(1) RSJ 433.***

4. Learned counsel for the petitioner contends that the candidate who was at No.1 in the BC Category merit list ought to have been moved to the open Category in accordance with law and the judgments, *ibid.*

5. Per contra learned counsel for respondent No.1 relies on Clause 11.2 of the advertisement which is extracted hereinbelow:-

11.2 "A candidate should indicate the specific category carefully for which he/she wants to be considered and category once opted and submitted after completion of form cannot be changed in any circumstances."

6. Learned counsel for the respondent No.1 contends that the said Clause has since not been challenged in the present writ petition. Therefore, the petitioner cannot seek the benefit of the judgments cited by the learned counsel for the petitioner.

7. The contentions of the learned counsel for the respondent No.1 do not stand the judicial scrutiny inasmuch as the

Clause relied upon in the advertisement nowhere envisages that the option once exercised by a Reserved Category candidate shall not be converted into General Category depending on the marks obtained. Also, the principles enunciated by the Hon'ble Supreme Court of India in ***Indira Shawney's case (supra)*** as also the judgment of this Court relied by the petitioner amply clarify the position in law.

8. Accordingly, the General Category Candidate in present case shall have to make way for Backward Category Candidate who admittedly secured more marks than him has not represented himself despite service.

9. In the course of hearing, vide order dated 12.06.2015, this Court had observed that all the appointment letters issued by the Appointing Authorities pursuant to the advertisement shall be subject to the final outcome of the present writ petition.

10. In this view of the matter, the present petition is allowed and a writ of mandamus is issued directing respondent Nos.1 and 2 by moving respondent No.4 from BC Category to General Category. Consequent thereto, respondents are directed to consider the case of the petitioner for appointment to the post of Inspector Grade-I in BC Category in accordance with the merit list and in accordance with the principles of law enunciated in the ***Indira Shawney's case (supra)***. Let the said exercise be carried out within a period of 06 weeks from the date of receipt of copy of this order.

11. Writ petition is, accordingly, disposed of with no order

as to costs. It is made clear that the consideration for the appointment of the petitioner shall reckon back to the date of the original appointments made pursuant to the advertisement with all consequential benefits.

09.01.2019

vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No