

CWP-14039-2017 (O&M)

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

**CWP-14039-2017 (O&M)
Date of decision : 09.07.2019**

Shiv Charan

... Petitioner(s)

Versus

Haryana Staff Selection Commission

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Dhuhan, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

AMIT RAWAL, J. (ORAL)

The petitioner has invoked jurisdiction of this Court under Articles 226/227 of the Constitution of India for issuance of writ in the nature of *mandamus* directing the respondent to consider the candidature of the petitioner under Economically Backward Person General (EBGC) Category instead of Scheduled Caste Category for the post of Shift Attendant in the UHBVNL/HVPNL/DHBVNL, against Advertisement No.3/2016 (Annexure P-1).

Learned counsel for the petitioner submitted that in pursuance to the aforesaid advertisement, the petitioner though belonged to EBGC Category, applied for the said post under SC Category by attaching EBGC Certificate dated 03.01.2014. He sat in the written examination and remained successful. However, at the time of scrutiny of documents, the

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petitioner submitted an affidavit dated 08.05.2017 for consideration his candidature under EBPG Category instead of SC Category. In this regard, also submitted the representation dated 25.05.2016, thus, urges this Court for intervention.

Learned counsel for the State submitted that the petitioner applied for the post under SC Category. No date on the application form has been mentioned, whereas the last date for submission of the application was 04.04.2016. He attached EBGC certificate dated 03.01.2014, but applied under SC Category. During all this period, no representation was made. Representation was only made after scrutiny of the documents held on 09.05.2016. It is an afterthought, because he has availed the remedy of SC Category and realizing that the posts under EBGC Category remained unfilled, made the representation. It is an act of volte face.

I have heard learned counsel for the parties, appraised paper book and of the view that it is a classic case, where the petitioner, though availed the remedy of SC Category initially, without raising any finger or doubt, by annexing EBGC certificate dated 03.01.2014, submitted the application form before the last date. On declaration of the result and realizing that EBGC Category posts remained vacant, somersaulted and submitted a representation dated 25.05.2016 i.e. after scrutiny of the documents held on 09.05.2016, where he signed under SC category. It is totally unexpected that a person, who is having EBPG certificate, applied under SC Category, did not raise finger till the scrutiny of the documents. Such an approach of the petitioner is not called for judicial intervention under Articles 226/227 of the Constitution of India.

Keeping in view the above, the present writ petition is devoid

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of merit and the same is hereby dismissed. Consequently, the accompanying applications are also dismissed.

09.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**