

219 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15557 of 2017(O&M)

Decided on:19.11.2019

Pawan Kumar

.....Petitioner

versus

Institute of Banking Personnel Selection and othersRespondents

CORAM : HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr.Rahul Deswal, Advocate,
for the petitioner.

Mr.Aayush Gupta, Advocate
for respondent No.1.

Mr.Vikas Chatrath, Advocate,
for respondent No.2 and 3.

Respondent No.4 proceeded against *ex parte*
vide order dated 22.04.2019.

ARUN MONGA, J. (Oral)

CM-17946-2017

For the reasons mentioned in the application, the same is allowed, subject to all just exception. Judgment dated 24.05.2012 is taken on record as Annexure P-16. Exemption is granted as prayed for.

CWP No.15557 of 2017

1. *Inter alia* issuance of writ in the nature of *certiorari* has been sought to quash impugned order dated 10.05.2016 (Annexure P-13) passed by respondent No.2-Allahabad Bank, whereby petitioner's name has been deleted from the selection list, despite the fact, he was selected by due process of respondent No.1, pursuant to advertisement dated 09.08.2014.

2. The solitary ground of deletion of petitioner's name from the selection list is that in a Judgment rendered by the Hon'ble Supreme Court in case titled as “**Ram Singh and another vs. Union of India,**” reported as

2015 (4) SCC 697, Jats being not classified under Other Back Classes (OBCs) are not entitled to the reservation. The petitioner had since applied under the category of OBC and therefore, being a Jat has not been accorded the reservation under OBC category. However, the conceded position on perusal of the pleadings emerges is that though the petitioner had indeed applied under the OBC category but prior thereto he had rendered 16 years of service in the Indian Army and was thus, admittedly an ex-serviceman and therefore, entitled to the reservation benefit, accorded to the similarly situated in the category of ex-serviceman. Merely because he does not come under the OBC category would not disentitle him to seek the benefit of being an ex-serviceman. The said position in law is no more *res integra* as has been conclusively held by the Division Bench of Delhi High Court in the case of “**Swadeep Kumar vs. Allahabad Bank and others**” decided on 24.05.2017 in which Allahabad Bank itself was a party, which Judgment has since attained finality as the same was implemented *qua* the petitioner therein.

3. The Division Bench of the Delhi High Court has observed as below:

13. Having heard learned counsel and perused the record, we are of the view that the denial of employment to the appellant by the respondents to the post of SWO–A (Clerical Cadre) –IV in the respondent No.1 bank is completely illegal and unjustified. Since “Jats” were classified as an Other Backward Class when the appellant made his application in response to the advertisement issued by the respondents on 21.08.2014, he fairly claimed the benefit as an OBC candidate. After making of the online application, the Supreme Court vide judgment dated 17.03.2015 declared that “Jats” could not be classified as an Other Backward Class. The effect of the said decision was that the appellant was liable to be considered as a general category candidate. At the same time, the appellant was also

an Exserviceman and in his online application, he had clearly disclosed that he is an Ex-serviceman, and he had even sought to avail of the higher age limit prescribed for the said category, i.e. Ex-serviceman. The appellant in response to the query “Are you an Ex-serviceman”, responded by saying “Yes”. He also disclosed the actual service rendered in Army which may be counted for qualifying as an Ex-serviceman (in months) as 195. He disclosed his Date of Birth as 15.07.1979 and his age completed as on 01.08.2014 as 35 years.

15. XXXXXXXXXXXXXXXX

16. XXXXXXXXXXXXXXXX

17. XXXXXXXXXXXXXXXX

18. The respondents even issued the allotment letter to the appellant allotting him to Allahabad Bank under the “OBC–EXS” vacancy. Merely because, subsequently, the respondents realized that the appellant was not entitled to reservation under the OBC category, could not have been a ground to deny him his post without even examining whether he was entitled to the said post upon being considered as a general category Exservicemen candidate.

Having gone through the Judgment *ibid* and being in respectful agreement with the ratio therein, writ petition is allowed. The order dated 10.05.2016 (Annexure P-13) passed by respondent No.2-Allahabad Bank, is set aside and the respondent-Bank is directed to accord the benefit of reservation to the petitioner in accordance with his merit in the ex-serviceman category and pass appropriate orders and in case he is found meritorious then issue him appointment letter *qua* the post he applied.

Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

November 19, 2019
dharamvir

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