

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

**CWP No.20882 of 2017
Date of decision: 25.09.2019**

Bharat Bhushan

....Petitioner

Versus

HPSC and others

....Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr. G.S. Nahel, Advocate for the petitioner.

Mr. Kanwal Goyal, Advocate for respondent Nos.1 and 2-HPSC.

Ms. Stuti Bamba, Advocate for Mr. Keshav Gupta, Advocate for respondent No.4.

B.S. Walia, J. (Oral)

1. Learned counsel for respondent Nos.1 and 2-Commission states that respondent Nos.3 and 4 had applied for the post in question on 22.2.2016 and 14.3.2016 under BC-A (DESM) and BC-A (PH) (OH) category respectively and cut off marks under BC-A category were 67.30 whereas respondent No.3 secured marks more than cut off marks i.e. 71.2 therefore, respondent No.3 was rightly selected as per merit under the BC-A category. Further, respondent No.4 who had applied under BC-A (PH-Ortho) category although had secured less marks than the petitioner but was appointed by virtue of horizontal reservation as per the decision of Hon'ble the Supreme Court in **Rajesh Kumar Daria versus Rajasthan Public Service Commission and others 2007(4) SCT 99** as well as instructions of Haryana

Government issued vide No.22/10/2013-1GSIII dated 15.07.2014. Relevant extract of the instructions is reproduced as under :

“Persons with disabilities selected on their own merit without relaxed standards along with other candidates, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible candidates with disabilities which will thus comprise physically handicapped candidates who are lower in merit than the last candidate in merit list but otherwise found suitable for appointment, if necessary, by relaxed standards. It will apply in case of direct recruitment only, wherever reservation for persons with disabilities is admissible.”

2. Since, PH (Ortho) is covered under horizontal reservation therefore PH (Ortho) candidate shall consume the post from the vertical reservation category to which the candidate belongs as stipulated in para 13 (f) of Haryana Government instructions, issued vide No.22/10/2013-1GSIII dated 15.07.2014.

3. Learned counsel for the respondent further states that the aforementioned instructions were issued pursuant to the decision of a Division Bench of this Court in CWP No.18738 of 2009 decided on 06.09.2011 in case titled as **“Ajit Singh versus State of Haryana and others”** which in turn is based on the decision of Hon’ble, the Supreme Court in **Rajesh Kumar Daria’s** case (supra).

4. Learned counsel for the petitioner has not controverted the decisions as referred to above or the applicability of the principles enunciated therein to the facts of the instant case.

5. In the light of the position as noted above, there is no merit in the writ petition. Accordingly, the same is dismissed.

September 25, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No