

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

CWP No.2439 of 2017 (O&M)  
Date of Decision: 22.07.2019.

|                             |        |                 |
|-----------------------------|--------|-----------------|
| Kapil Rani                  | Versus | ...Petitioner   |
| State of Haryana and others |        | ....Respondents |

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

Present: Mr. Vijay Pal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

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**B.S.WALIA, J (Oral).**

1. Prayer in the writ petition is for the issuance of a writ of Certiorari to quash the action of the respondents in cancelling the candidature of the petitioner on account of the petitioner having wrongly mentioned her category as ESM (dependant) EBPGC instead of EBPGC.

2. Brief facts of the case leading to the filing of the writ petition are that respondent No.3 issued advertisement Annexure P/1 dated 28.06.2015, inviting applications for direct recruitment to 6874 posts of PGT-HES-II (Group-B) Service in different subjects. The petitioner, who belongs to EBPGC category, submitted online application for one of 164 posts of PGT (English). As per the advertisement, 33 posts were reserved for ESM while 32 posts were reserved for EBPGC category. However, there was no category of

ESM (dependant) EBPGC. Relevant extract of the advertisement is reproduced as under:-

**“POSTS EXCEPT DISTRICT MEWAT (REST OF HARYANA)”**

Category wise detail of posts (Except Mewat) Category No.1 to 18

| Ct. No.  | Name of post  | Total no. Of posts | UR (50%) | SC (20%) | BCA (10%) | BCB (5%) | SBC (5%) | EBPGC (5%) | ESM (5%) | TOTAL | OH | NH | VH |
|----------|---------------|--------------------|----------|----------|-----------|----------|----------|------------|----------|-------|----|----|----|
| 1 to 4   | x             | x                  | x        | x        | x         | x        | x        | x          | x        | x     | X  | x  | x  |
| 5        | PGT (English) | 649                | 326      | 129      | 65        | 32       | 32       | 32         | 33       | 649   | 10 | 0  | 9  |
| 6 to 18. | X             | x                  | x        | x        | x         | x        | x        | x          | x        | x     | X  | x  | x  |

3. Inadvertently the petitioner who belongs to EBPGC category as is evident from certificate Annexure P/6 dated 15.04.2014, applied under ESM (dependant) EBPGC category. Apparently there was no verification of the application form submitted by the petitioner besides there is no category of ESM (dependant) EBPGC.

4. As per note –I in the advertisement at internal page No.10 of Annexure P/1, benefit of reservation was admissible only to those category candidates who were domicile of Haryana State and who would submit certificate duly issued by the competent authority at the time of interview. The petitioner on realizing the mistake, approached the respondents at the time of verification of original documents i.e. on a date prior to the date of interview and was told that she was ineligible since she had applied under the category of ESM (dependant) EBPGC but had not produced relevant category certificate. Faced with the aforementioned situation, the petitioner invoked the jurisdiction of this Court by filing the instant writ petition

and vide order dated 08.02.2017, the respondents were directed to consider the candidature of the petitioner for the post of PGT (English) under EBPGC category subject to the result of the writ petition.

5. Learned counsel for the petitioner has relied upon the decision of a Coordinate Bench of this Court in CWP No.14863 of 2017, decided on 31.10.2018, in which the petitioner had applied under the Economically Backward Person in General Category (EBPGC) but the candidature of the applicant therein was cancelled on the ground that she had filled the online form declaring her category as BCB whereas in fact she belonged to EBPGC category. Learned Coordinate Bench while taking note of the category certificate having been issued to the petitioner therein prior to the last date of submission of application form and it not being a case where the petitioner had intentionally tried to change her category from BCB to EBPGC and it being the duty of the respondents to read the form of the petitioner carefully and then to reject the case of the petitioner and keeping in view that for all intents and purposes, it was a clerical mistake and it not being the case of the respondents that the certificate of the petitioner was not valid but the mistake had occurred due to inadvertent error of the petitioner while filling online form, allowed the writ petition filed by the candidate and directed the respondents to consider the candidature of the petitioner therein under correct category as per law. The aforementioned decision was upheld by Hon'ble the Division Bench of this Court in LPA No.320 of 2019, vide

order dated 22.02.2019. Relevant extract of the same is reproduced as under:-

*“5. We cannot loose sight of the fact that in view of the prevailing socio economic condition in our country, every citizen is neither net savvy nor has a computer or laptop readily available for use. In these circumstances, when such a candidate has to submit an application on-line he has to dependent upon the cyber cafes providing the net services. Being himself/herself not computer and net savvy the candidate has to depend upon the operator in the cyber cafe to fill in online form and in such a circumstance if any mistake occurs it would be wholly unrealistic and arbitrary to make such a candidate suffer. It is also to be taken note of that if an incorrect entry is made due to human error, there is no provision on the website of the Commission allowing correction in the online application form. In these circumstances, if a mistake is committed, there being no provision for carrying out correction, even if it is noticed subsequently, a poor candidate is to suffer for no fault.*

*6. In the case in hand, the respondent-petitioner is a poor widow lady and is resident of village Karora, District Kaithal, where she was working as an Anganwari Worker. It is pleaded in the writ petition that online application form was submitted by her through computer centre in the village. In view of the aforesaid facts and circumstances we find no illegality in the view taken by the learned Single Judge allowing the claim of the respondent-petitioner.*

*7. After hearing learned counsel for the appellant we are also not persuaded to take a different view in the matter than the taken by the learned Single Judge. Appeal thus accordingly stands dismissed.”*

6. In the instant case also, the petitioner had filled up the application form online through cyber café and had approached the respondents for being allowed to submit the correct certificate for consideration of her claim under the correct category i.e. EBPGC at the time of verification of documents i.e. prior to the date of interview. The category certificate of the petitioner indicating her belonging to EBPGC category i.e. Annexure P/4 is of a date prior to the cut off date for submission of the application. Besides the said certificate was duly attached along with the application form even at the time of submission of online application form as well as at the time of verification of documents. In the circumstances, it would be grave injustice if the petitioner is penalized for an inadvertent mistake. On query, Mr. Harish Rathee, Sr. DAG, Haryana has clarified that in fact if an incorrect entry is made in online application form, there is no provision on the website of the Commission to allow correction of the same in the online application. Thus, it is apparent that if a mistake is committed there is no provision for carrying out correction even after it is noted subsequently and in such circumstances a candidate who has inadvertently committed a mistake would have to suffer the consequences.

7. In the light of the position as noted above, the respondents are directed to treat the petitioner as eligible under EBPGC category and to consider her candidature for appointment to the post of PGT (English) on the basis of merit as per the result of all the candidates who had appeared in the examination. In case the petitioner is selected

on the basis of merit, then appointment letter be issued within two weeks.

8.                   Writ petition allowed as above.

**(B.S.WALIA)**  
**JUDGE**

22.07.2019  
rajesh.k.khurana

|                           |          |
|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether reportable        | : Yes/No |