

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

**CWP-7332-2017**

**Date of Decision: 06.09.2019**

**Ajay Masih**

**... Petitioner**

**vs.**

**Union of India and Ors**

**.. Respondents**

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr.A.P.S.Tung, Advocate  
for the petitioner.

Mr. Shivoy Dhir, Advocate  
for the respondent-UI.

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**ARUN MONGA, J.(ORAL)**

Grievance of the petitioner is that despite respondent No.5 belonging to OBC category, he has not been given the appointment in his category and has been appointed on the post meant for General Category.

2. The petitioner is admittedly lower in merit vis-a-vis respondent No.5 in the General Category having obtained 37 marks as compared to 43 marks obtained by respondent No.5.

3. Learned counsel appearing for respondent-UI has drawn my attention to the advertisement dated 23.01.2016 (Annexure P-1), wherein, the pre-requisite of establishing that a candidate belongs to OBC category, as per Clause 14 (4), which envisages that a candidate seeking reservation benefit must ensure that they are entitled to such

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reservation as per the eligibility prescribed in the notice. Further it states that they should also be in possession of certificates in the format prescribed by Government of India in support of their claim when the copies of the certificates would be sought after the written examination. OBC candidates should ensure that they are in possession of OBC certificate in the prescribed format issued by Competent Authority within the due date prescribed in the notice.

4. Respondent No.5 did not comply with the above requisite Clause 14 of the advertisement and failed to submit his certificate belonging to OBC category despite the fact that he initially filled up the application form, pursuant to the advertisement in the OBC category. In the premise, the respondents did not give him the benefit of OBC category since he failed to establish his claim that he belongs of OBC category.

5. Learned counsel for the petitioner contends that since the petitioner had originally applied in the category of OBC, he ought to have been treated in the said category and his category could not have been converted to the general category.

6. I am not in agreement with the insipid argument of learned counsel for the petitioner. It is for a candidate to decide as to which category he wishes to apply. Assuming that respondent No.5 belonged to OBC category but in case he decided to forgo the said benefit by converting himself into the general category he did so at his own peril. In any case, it is settled position in law that if a candidate belonging to

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reserved category obtains more marks than the last selected candidate in the general category, he is entitled to be converted into the general category and the benefit of reservation, in that case, is extended to the next candidate who is in merit in the reserved category.

7. In view of my discussion above and the reasoning contained therein, the petition is devoid of any merit and the same is, accordingly, dismissed.

8. No order as to costs.

**06.09.2019**  
smriti

**(ARUN MONGA)**  
**JUDGE**

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