

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

CWP-2776-2019 (O&M)

Date of decision:- 04.04.2019

Kuljeet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present:- Mr. Ashok Bhardwaj, Advocate,
for the petitioner.

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KRISHNA MURARI, C.J. (ORAL)

By means of this petition under Article 226 of the Constitution of India, petitioner has approached this Court seeking the following main reliefs:-

- (a) Issue a writ in the nature of certiorari for quashing section 2(d)(a) of the Punjab Recruitment of Sportsmen Rules, 1988 as the same is ultra-vires the Constitution of India and quashing the final merit list of Junior Engineer (Civil), qua the 6 posts of sportspersons (General Category), uploaded on 02.11.2018 by the respondent No. 2, since, no sportsperson has been selected in the said category, despite the fact that petitioner has requisite eligibility and qualification in the Sports Category.
- (b) One post in the sportsperson (General Category), may kindly be directed to be kept vacant during the pendency of the present petition.

(c) Any other order or direction may kindly be issued, which this Hon'ble Court may deem just and proper in the facts and circumstances of the case.

2. Undisputed facts are that an advertisement was issued by the respondents for making appointment on 199 posts of Junior Engineer (Civil) out of which 06 posts were reserved for sportspersons (General). The petitioner was one of the applicants for the post reserved for sportsperson (General). She accordingly appeared in the written examination which was scheduled for 29.07.2018 and in the merit list for the sports category her name found place at serial No. 6. Accordingly, she was called for counselling and documentation. Since her sports gradation certificate was in the process of being prepared, on a request made by her, she was permitted to appear in the second counselling which was held on 25.09.2018. The petitioner participated in the second counselling alongwith all the relevant documents. However, her name did not find place in the final selection list. The petitioner was found ineligible because of the reason that she was having Grade-D Sports Certificate which was of the District Level, whereas Section 2(d) (a) of the Rules prescribed the criteria for recruitment to a reserved vacancy for sportsperson in Class I or Class II posts as under:-

"(i) that he belongs to the State of Punjab; and

(ii) that he has won national championship in team or individual events while representing the State of Punjab in such sports events as have been conducted by such respective national federations as are affiliated to the Indian Olympic Association;

Or

(i) that he has won national championship in team or individual events which are organized by the Indian Olympic Association;

Or

(ii) that he has won first, second or third position in team or individual events and or he has won Gold or Silver or Bronze Medals at International Sports meets, conducted by International Federations affiliated to the International Olympic Committee or by the International Olympic Committee itself."

3. Admittedly, the petitioner applied for the post of Junior Engineer (Civil), which is a Class II post and in view of the requirement of the Rules, she was not qualified for being appointed and, thus, was rightly not selected being ineligible.

4. It is well settled that Article 14 of the Constitution does not prohibit reasonable classification subject to the condition that classification on which it is founded must be based on an intelligible differentia which distinguishes the persons or things group together from other left out of the group and the differentia in question must have a reasonable classification to the object sought to be achieved by the Rules or statutory provisions in question.

5. In other words, there must be a rational nexus between the basis of classification and the object sought to be achieved by the rule or statutory provision in question.

Articles 14 and 16 form part of the same constitutional code of guarantees and supplement each other. It can be said that Article 16 is only an instance of the application of the general rule of equality laid down in Article 14. Thus, unless the person, who complains of discrimination is identically situated with the person or persons, who are alleged to have been favoured, it cannot be said that there is denial of equality or opportunity. Even Article 16(1) does not bar a reasonable classification of employees or reasonable tests for their selection. Hon'ble Apex Court in **State of Mysore and another v. P.Narasinga Rao AIR 1968 SC 349** while considering the issue has held as under:-

"It is true that the selective test adopted by the Government for making two different classes will be violative of Articles 14 and 16 if there is no relevant connection between the test prescribed and the interest of public service. In other words, there must be a reasonable relation of the prescribed test to the suitability of the candidate for the post or for employment to public service as such. The provisions of Article 14 or Article 16 do not exclude the laying down of selective tests, nor do they preclude the Government from laying down qualifications for the post in question. Such qualifications need not be only technical but they can also be general qualifications relating to the suitability of the candidate for public service as such."

6. In the case in hand the different prescription/gradation of sports as eligibility criteria for appointment on a reserved vacancy for sports person on Class-I & II and Class-III & IV posts cannot be said to be hit by the Articles 14 and 16 of the Constitution of India as Class-I & II

cadre and Class-III & IV cadre posts constitute different class and the person seeking appointment in Class-I & II and Class-III & IV posts cannot be said to belong to the same class so that prescription of a different sports gradation as qualification for appointment on reserved vacancy in different cadre can be said to be discriminatory and violative of Articles 14 and 16 of the Constitution of India.

7. Admittedly the nature of responsibilities and duties attached to the different posts being different from each other, the classification is based on intelligible differentia and there is a nexus with the object sought to be achieved. Thus the rule cannot be said to be violative of Articles 14 and 16 of the Constitution of India so as to declare them ultra-vires.

8. The challenge made by the petitioner must further fail on the ground that the same has been made after she participated in the process of selection knowing fully well about the qualification which was clearly indicated in the advertisement. Having participated in the selection process and after being unsuccessful, it is not open to challenge the selection criteria as held by the Hon'ble Apex Court in **Madan Lal vs. State of Jammu & Kashmir 1995(3) SCC 486** wherein it has been observed as under:-

“when the petitioners appeared at the oral interview conducted by the members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned, the petitioners took a chance to get themselves selected at the said oral

interview. Therefore, only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed writ petitions. This Court further pointed out that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.”

The same view was reiterated by the Apex Court in another decision in the case of ***Dhananjay Malik and others v. State of Uttaranchal 2008(4) SCC 171.***

In view of the above facts and discussion, we do not find any merits in the contention raised on behalf of the petitioner.

The petition thus fails and stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.04.2019

Anodh/ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No