

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 40520 of 2018(O&M)

Date of decision :10.05.2019

Shaktivesh

...Petitioner(s)

versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

RITU BAHRI, J. (Oral)

The petitioner has participated for the post of TGT Physical Education. The final result has been declared on 04.01.2019. The last selected candidate under the general category has secured 108 marks. The final result of the petitioner has been produced in Court today. He has secured 68 marks in the written examination and 12 marks in the viva voce. Total marks are 80 which are less than the last selected candidate under the general category. The result of the petitioner has been returned to learned counsel for the State.

The case of the petitioner is that inadvertently he mentioned his category as general. However, he belongs to EBPG category and the certificate of EBPG dated 30.06.2017 is at Annexure P-3.

The petitioner appeared for scrutiny of documents and thereafter he made a representation on 21.12.2018 (Annexure P-7) which was received by the Commission but his case has not been considered under the EBPG category.

Learned counsel for the petitioner states that as per the final result declared on 04.01.2019, 46 posts under the EBPG category are still

lying vacant. He further states that the last selected candidate under the

EBPG category has secured 22 marks as per the final result whereas the petitioner has secured 80 marks which are very much higher than the last selected candidate under the EBPG category.

The stand taken by the respondents in para 9 of the short reply is that as per the decision of ***CWP No. 15119 of 2016 Shashi V/s. State of Haryana***, dismissed on 22.05.2018, the category cannot be changed after participating in the selection process and reference has been given to the judgment passed by Hon'ble the Supreme Court in ***J & K Public Service commission*** and in the case of the petitioner, he had applied under the general category and now he cannot be considered under the EBPG category, even if 46 posts are still lying vacant.

In the present case, the petitioner has a right to get benefit of reservation as per note-1 which is reproduced below:-

“The benefit of reservation will be given only to those SC/BCA/BCB/PHC/SBC/EBPG and ESM and outstanding sportsperson candidates who are domicile of Haryana State. The SC/BCA/BCB/PHC/SBC/EBPG candidates are required to submit SC/BCA/BCB/PHC/SBC/EBPG certificate duly issued by the competent authority at the time of interview.”

In the present case, the EBPG certificate (Annexure P-3) was issued to the petitioner on 30.06.2017. The petitioner had not been called for interview as he has secured less marks than the last selected candidate under the general category. The petitioner belongs to economically weaker section of the society and genuineness of the certificate is not being doubted by the Haryana Staff Selection Commission and Haryana Staff Selection Commission is also not denying the receipt of the representation (Annexure P-7) which was made by the petitioner immediately after getting the certificate to extend him the benefit of reservation. On the date of interview,

the candidate can show his certificate for claiming the benefit of reservation and only on the technical ground that in the application form, he has not mentioned his category as EPBG his claim cannot be rejected. The admit card of the petitioner (Annexure P-4) shows that he has applied against the general category and this admit card was issued on 04.12.2015 and at this stage, EBPG certificate has not been issued to the petitioner. Since 46 posts are still lying vacant after the declaration of the final result on 04.01.2019, the object of making reservation for economically weaker sections of the society would be defeated if a candidate of EBPG is not allowed to join in service when he has secured 80 marks whereas the last selected candidate under the EBPG category has secured 22 marks, and on the technical ground, his claim cannot be rejected. This Court in the similar circumstances, had allowed ***CWP No. 25782 of 2018 Subhash Chand V/s. State of Haryana and others*** on 10.12.2018. Even in that case, the selection was for the post of PGT Political Science and after declaration of the final result, 11 posts under the EBPG category were lying vacant. The certificate of EBPG had been shown at the time of scrutiny of documents, still he was not given the benefit of selection. In this backdrop, his writ petition is allowed.

Keeping in view the above, this petition is allowed. Respondent No. 1 is directed to recommend the case of the petitioner to the Haryana Staff Selection Commission within a period of two weeks from the date of receipt of certified copy of this order and Haryana Staff Selection Commission will issue appointment letter within the next 15 days to the petitioner.

Since the main case is allowed, pending application, if any, also

stands disposed of.

10.05.2019

Divyanshi

(RITU BAHRI)
JUDGE

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