

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

**C.W.P 31185 of 2018
Date of decision : 20.05.2019**

RobinaPetitioner
versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sajjan Singh, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana

RITU BAHRI, J. (Oral)

Petitioner is seeking quashing action of the respondents for not considering him under EBPGC and further prayer of the petitioner is for issuance of direction to the respondents to consider him under EBPGC.

On 10.12.2018, this Court passed the following order:-

“Learned counsel for the petitioner submits that petitioner has participated for the post of PGT (Chemistry) under the general category and during scrutiny of documents which was held on 12.04.2017, she has produced the certificate of economically backward person. However her category was not changed and she was taken into consideration under the general category and not under EBPG category. The last candidate called for interview in the EBPG category has secured 96 marks and the petitioner has secured 100 marks. Still she has not been called for interview.

Notice of motion for 18.03.2019.

In the meantime, petitioner shall be allowed for interview provisionally under the EBPG category and her result be kept in the sealed cover.

A copy of this order be supplied to counsel for the petitioner

under signatures of the Court Secretary of this Court.

Thereafter, this Court passed the following order on 18.03.2019:-

“Result of the petitioner has been produced in Court, a perusal of which shows that she (petitioner) has secured 116 marks in written examination, 04 marks for experience and 16 in viva voce, total 136 marks. Last candidate in EBPGE category has secured 108 marks. Learned counsel for the petitioner states that the petitioner had got issued EBPGE certificate on 30.01.2014 (Annexure P-1). In this background, while filling her application form, she had mentioned her category as General. He further contends that since the petitioner is having EBPGE certificate dated 30.01.2014 (Annexure P-1), her candidature cannot be considered against the General category. This certificate was part of the application form right from the day, she had made her application. Final result has been declared on 27.12.2018 and 04 posts under EBPGE category are still lying vacant.

Adjourned to 20.05.2019 to enable the respondents to file short reply.

To be shown in urgent list.

In the meantime, one post under the EBPGE category be kept reserved.

On notice of this petition, a reply has been filed on behalf of respondent No. 3 taking a stand that the petitioner has filled her category as General category in the application form and as per note 3 of the above advertisement, her candidature cannot be considered under EBPGE category wherein it has clearly been mentioned that candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application. If on verification at any time before or after the written examination or interview or appointment, it is found that they do not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect, their candidature will be cancelled.

Heard learned counsel for the parties at length.

It is not in dispute that the petitioner is an EBPGC candidate and the certificate was issued to her on 30.01.2014 (Annexure P-1) i.e before the date of advertisement dated 28.06.2015 (P-3) but inadvertently while filling the application form online, she has mentioned her category as General. Now the petitioner is having higher marks than the last candidate under EBPGC category and 04 posts under EBPGC are still lying vacant.

Learned counsel for the petitioner is relying upon judgment passed by this Court in a case i.e CWP No. 14863-2017 titled as Sarla vs. State of Haryana and others, decided on 31.10.2018 wherein this Court allowed the writ petition. In this case, the petitioner filled her application form under BCB category whereas she belongs to EBPGC category. The operative part of the judgment read as under:-

It is not in dispute that the petitioner was given certificate dated 17.02.2017 i.e before last date of submission of application form. It is not a case where the petitioner intentionally tried to change her category from BCB to EBPG and it was the duty of the respondents to read the form of the petitioner carefully and then to reject the case of the petitioner. For all intents and purposes, it was a clerical mistake. It is not a case of the respondents that the certificate (Annexure P-5) of the petitioner is not valid. Due to inadvertent mistake of the petitioner, the petitioner was considered against the wrong category.

*Reference at this stage can be made to a judgment of this Court in a case of **Usha Dhillon vs. State of Haryana and others, 2015 (2)***

***PLR 412** wherein it has been held that there was no provisional on*

the website of the Commission allowing correction in the online application form. There was no option left with the petitioner but to approach the Commission through her application. If one is human, one will err. Right of no other candidate would be effected, if the application of the petitioner is permitted to be considered, as prayed for. Respondents were directed to consider the case of the petitioner under Ex-servicemen category as dependent of Ex servicemen, in accordance with law.

In view of the above factual position, the present writ petition stands allowed and the respondents are directed to consider the candidature of the petitioner under EBPG category instead of BCB category and issue her appointment letter within a period of two weeks from the date of receipt of certified copy of this order. The petitioner is entitled to all consequential benefits.

LPA No. 320-2019 filed against the above said order also stands dismissed on 22.02.2019.

Applying the ratio of the above mentioned judgment, the present petition stands allowed and respondent No. 1 is directed to recommend the case of the petitioner for appointment to the post of PGT Chemistry under EBPGC category within next 15 days from the date of receipt of certified copy of this order and thereafter, within next 15 days, respondent No. 2 shall issue appointment letter to the petitioner.

May 20, 2019

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No