

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

CWP-7672-2020(O&M)

Date of decision: 06.10.2020

Kavita

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vikram Sheoran, Advocate for the petitioner

Mr. Samarth Sagar, Addl. AG, Haryana

ANIL KSHETARPAL, J. (ORAL)

Although, this Court has all the sympathy with the petitioner, however, it would not be appropriate to issue the direction as sought for by the petitioner.

The petitioner pursuant to the recruitment notice dated 28.7.2006 issued by Haryana Staff Selection Commission for filling up various posts including 1983 posts of PTI (Physical Training Instructor), submitted an application in the General category. The Commission published the final select list in the year 2010 which was the subject matter of challenge before the High Court. The final select list was set aside by the Court vide its judgment dated 11.9.2012 against which the Letters Patent Appeal was dismissed. Thereafter, various civil appeals filed before the Hon'ble Supreme Court came to be disposed of vide judgment dated 8.4.2020 with the following directions:-

“75. In view of the foregoing discussions and conclusions, we dispose of these appeals with the following directions:-

(i) The Commission shall conclude the entire selection process initiated by the advertisement no. 6 of 2006 as per criterion notified on 28.12.2006 i.e holding objective type written test of 200 marks and viva voce of 25 marks. All the applicants who had submitted applications in response to the above advertisement including those who were selected shall be permitted to participate in the fresh selection as directed.

(ii) The candidates who have been selected and have worked on the post of PTI shall not be asked to refund any of the salary and other benefits received by them as against their working on the posts. No refund shall also be asked from those candidates who after their selection worked and retired from service.

(iii) The entire process be completed by the Commission within a period of five months from the date Commission starts working after the present lockdown is over, which was the time fixed by the learned Single Judge for completing the process.

(iv) The costs imposed by the Division Bench in paragraph 54 of the judgment of the High Court are deleted except the costs imposed on the Commission.”

Pursuant to the directions issued, Haryana Staff Selection Commission issued a public notice dated 15.5.2020 permitting all the candidates who had applied pursuant to the recruitment notice issued in the year 2006, to participate in objective type written examination.

The petitioner filed the present writ petition in May, 2020 claiming that she is the married daughter but dependent on an Ex-serviceman and therefore, entitled to apply under dependent of Ex-servicemen category. It has been pointed out that as per policy issued

by the State Govt. in the year 2001, dependent married daughters of Ex-servicemen were not included in the aforesaid category. The High Court vide judgment dated 19.10.2011 quashed the same. The petitioner submits that now since a married daughter is included in the category of the dependent of ex-servicemen, therefore, her application is required to be considered in that category.

Pursuant to the notice of motion, State Govt. has filed its short reply. It has been pointed out that the petitioner applied under general category and the objective type competitive examination has been held only with respect to the applications which were submitted in the year 2006. Hence, it is contended that the request of the petitioner cannot be now permitted to change the category from what was originally submitted by her in the application submitted in the year 2006 or apply afresh under a different category.

This Court has heard learned counsel for the parties and with their able assistance perused the paper book. The question is whether the petitioner can be now permitted to change the application from general category to the category of the dependent of Ex-serviceman. The competitive examination has been held pursuant to a recruitment notice issued on 20.7.2006. It is undisputed that the petitioner had submitted her application under the general category. The Selection Commission has now invited applications in compliance with the judgment passed by the Supreme Court on 8.4.2020. Under direction no. 1 the Selection Commission has been directed to hold an objective type written test for all the applicants who had submitted their applications in response to the recruitment notice issued in the year

2006. In these circumstances, the petitioner does not get any right to submit a fresh application under a different category. Although, as claimed by the petitioner, she may now be in a position to apply pursuant to fresh recruitment notice under the category of dependent of Ex-serviceman, however, once the last date of submission of the application has already gone, the petitioner cannot claim that she is entitled to submit fresh application under a different category than what was originally opted by her or change the category in her application after the cut off date for submitting application has already elapsed. On 19.10.2011 the High Court while considering the validity of the policy has held that only offending part of clause (f) of the policy be read to include 'married dependent daughter'. In the present case, the recruitment notice was issued in the year 2006. The Supreme Court did not permit the Selection Commission to invite fresh applications. In these circumstances, this Court finds no substance in the claim made by the petitioner in the present writ petition.

Hence, dismissed.

06.10.2020
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No