

IN THE HIGH COURT OF PUNJAB ANDHARYANAAT
CHANDIGARH

CWP No. 21788-2015
Date of decision:-07.01.2020

Sitender Kumar

.....Petitioner

vs.

State of Haryana and ors.

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Neeraj Kumar, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana

RITU BAHRI, J.(Oral)

Petitioner is seeking quashing of selection and appointment of respondent Nos. 4 to 7 on the post of Chowkidar, Keyman, Petrolman and Sewerage Helper (P-12).

Pursuant to advertisement dated 18.03.2013 (P-2), the petitioner applied for various Group D posts. Thereafter, a corrigendum was issued and it was mentioned that the posts advertised on 18.03.2013 would now be read as per Haryana Government Reservation Policy dated 28.02.2013. Petitioner belongs to Special Backward Class and submitted his certificate on 29.03.2013 prior to the last date mentioned in Annexure P-3 i.e advertisement dated 31.05.2013.

The grievance of the petitioner is that respondent Nos. 4 to 7 have wrongly been appointed as respondent Nos. 4 to 6 have applied under general category and submitted their special backward class certificate on 04.10.2013, 17.09.2013 and 26.08.2013 respectively. Respondent No. 7

had applied under SBC category but he has not submitted any SBC certificate.

On notice of the petitioner, a written statement has been filed on behalf of respondent Nos. 1 to 3 stating taking a stand that Government issued notification on 23.01.2013 for reservation of Special Backward Classes (R-1) and therefore it was not possible for every person/candidate to get issued the certificate of Special Backward Class from the competent authority within 2 months after the notification. Thus, the certificates of SPB were accepted up to the time of interview. It has further been mentioned that respondent Nos. 4 and 7 have applied under SBC category. Respondent No. 7 has supplied his SBC certificate along with application form (R-2). Thereafter, an amended certificate was submitted by respondent No. 7 after the cut off date (R-3). The criteria for awarding marks has been given as under:-

Sr. No.	Making Criteria	Maximum Marks
1	Marks of academic standard for middle pass	15
2	Additional marks for academic standard matric pass	15
3	Additional marks for academic standard 10+2	20
4	Marks for experience (One mark for each year of part thereof)	10
	Total	60

Thus, the marks have been given to the candidates, as per criteria.

Learned State counsel is relying upon Division Bench judgment of this Court in a case of *Union of India through Secretary Ministry of Communication and Information Technology, New Delhi and others vs.*

Monika and another, 2018 (2) S.C.T 104 wherein this Court has observed that the candidature of candidate belonging to reserve category cannot be rejected on account of late submission of caste certificate by them after cut off date. In para 6, it has been observed as under:-

6. *The Apex Court in Ram Kumar Gijroya's case (supra), was examining identical issue where the OBC certificate was not submitted along with the application, but filed after the last date mentioned in the advertisement. It was held that the candidature of those candidates, who belonged to the reserved categories, could not be rejected simply on account of late submission of the caste certificate. Relevant paragraphs of the judgment rendered in Ram Kumar Gijroya's case (supra), reads thus:-*

“3. The important question of law to be decided in these appeals is whether a candidate who appears in an examination under the O.B.C. category and submits the certificate after the last date mentioned in the advertisement is eligible for selection to the post under the O.B.C. category or not.

14. The Division Bench of the High Court erred in not considering the decision rendered in the case of Pushpa (supra). In that case, the learned single Judge of the High Court had rightly held that the petitioners therein were entitled to submit the O.B.C. certificate before the provisional selection list was published to claim the benefit of the reservation of O.B.C. category. The learned single judge correctly examined the entire situation not in a pedantic manner but in the backdrop of the object of reservations made to the reserved categories, and keeping in view the law laid down by a Constitution Bench of this Court in the case of [Indra Sawhney v. Union of India, 1992 \(Supp\) 3 SCC 217](#) as well as [Valsamma Paul v. Cochin University & Ors., \(1996\) 3 SCC 545](#). The learned single Judge in the case of Pushpa (supra) also considered another judgment of Delhi

High Court, in the case of Tej Pal Singh (supra), wherein the Delhi High Court had already taken the view that the candidature of those candidates who belonged to the S.C. and S.T. categories could not be rejected simply on account of the late submission of caste certificate.

16. In our considered view, the decision rendered in the case of Pushpa (supra) is in conformity with the position of law laid down by this Court, which have been referred to supra. The Division Bench of the High Court erred in reversing the judgment and order passed by the learned single Judge, without noticing the binding precedent on the question laid down by the Constitution Benches of this Court in the cases of Indra Sawhney and Valsamma Paul (supra) wherein this Court after interpretation of Articles 14,15,16 and 39A of the Directive Principles of State Policy held that the object of providing reservation to the SC/ST and educationally and socially backward classes of the society is to remove inequality in public employment, as candidates belonging to these categories are unable to compete with the candidates belonging to the general category as a result of facing centuries of oppression and deprivation of opportunity. The constitutional concept of reservation envisaged in the Preamble of the Constitution as well as Articles 14, 15, 16 and 39A of the Directive Principles of State Policy is to achieve the concept of giving equal opportunity to all sections of the society. The Division Bench, thus, erred in reversing the judgment and order passed by the learned single Judge. Hence, the impugned judgment and order passed by the Division Bench in the Letters Patent Appeal No. 562 of 2011 is not only erroneous but also suffers from error in law as it has failed to follow the binding precedent of the judgments of this Court in the cases of Indra Sawhney and Valsamma Paul (supra). Therefore, the impugned judgment and order passed by the Division Bench of the High Court is liable to be set aside and accordingly set aside. The

judgment and order dated 24.11.2010 passed by the learned single Judge in W.P. (C) No. 382 of 2009 is hereby restored.”

This judgment is directly applicable to the facts of the present case. It is not the case of the petitioner that the private respondents have not been awarded marks as per criteria. The private respondents have submitted their SBC certificates as and when the certificates were issued to them by the competent authority.

Accordingly, the writ petition is dismissed.

07.01.2020
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No