

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

CWP-18337-2020

Date of Decision : 03.11.2020

Gurpreet Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Varun Goyal, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

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Matter has been taken up through Video Conferencing via Webex facility in the light of the COVID-19 situation and as per instructions.

Petitioner seeks a writ of Mandamus for directing the respondent authorities to consider the candidature of the petitioner for the post of Pharmacist (Pharmacy Officer) under the reserved ESM (General Category) instead of the General Category.

Counsel for the petitioner has been heard at length and pleadings on record have been perused.

Facts of the case lie in a very narrow compass. The Department of Health and Family Welfare Punjab issued an advertisement dated 06.08.2020 inviting applications for filling up 482 posts of Pharmacist (Pharmacy Officer). Out of these 34 posts were reserved for ESM General Category. Last date for submission of online application was 06.10.2020 but the same was extended

from time to time and upto 13.09.2020. The petitioner is stated to have submitted his online application on 25.08.2020 under the General Category. The scheme of selection included a written examination which was conducted on 11.10.2020 at Baba Farid University of Health Sciences, Faridkot. Petitioner duly appeared in the written examination and the result of which was declared on 13.10.2020 and the petitioner secured 31 marks out of 90.

The entire case projected on behalf of the petitioner is that on account of an inadvertent error he had submitted his online application under the General Category whereas he actually belongs to the ESM General Category. Counsel contends that against the 34 posts reserved for ESM General Category only 12 candidates had applied and had got selected. The last candidate whose name appears at Sr.No.12 has secured 30.75 marks out of 90 whereas the petitioner had secured 31 marks. It is argued that in spite of filing representations immediately to the respondent authorities and prior to the process of counselling, his request to be considered under the ESM General Category as opposed to the General Category has not been entertained. Counsel further urges that a number of posts under the reserved ESM General Category are still lying vacant and as such it would cause no prejudice to anybody if his request was to be entertained.

In the considered view of this Court the prayer of the petitioner cannot be accepted.

Even though copy of the advertisement in response to

which the petitioner had applied to the post has not been appended, yet Mr. Suveer Sheokand, learned Additional Advocate General, Punjab had been requested to furnish a copy thereof. Learned State counsel has forwarded on the WhatsApp Group a copy of the advertisement and in the terms and conditions contained therein condition No.5 reads in the following terms :-

“Candidates should select their categories carefully, because candidates belonging to categories other than General Category are entitled to fee concession/exemption, age relaxation and job reservation. **The Category once selected/filled will not be changed under any circumstances.** Candidates shall submit certificates issued by the Competent Authority in support of their claim to a particular category.”

Essentially the claim of the petitioner is for change of category. He had concededly submitted his online application form against the General Category. Placed on record at Annexure P-3 is the proforma of the online form submitted to Baba Farid University of Health Sciences, Faridkot and in which also it has been clarified that the post and category can't be edited after submission, So select it carefully. Further more, at Annexure P-4 is the Admit Card issued by Baba Farid University of Health Sciences, Faridkot and on the basis of which the petitioner had participated in the written examination for the post of Pharmacist (Pharmacy Officer). The admit card also mentioned the category of the petitioner as General.

Facts of the case clearly demonstrate that the petitioner had

applied for the post in question against the General Category and had appeared in the written examination conducted on 11.10.2020 as a General Category candidate. In the result declared he is shown to have secured 31 marks out of 90. Counsel for the petitioner fairly states that the cut-off pertaining to the General Category has been determined as 40 marks. Petitioner having taken his chance and having failed to attain the benchmarks against the category for which he had applied now seeks to take advantage of the lower benchmark pertaining to the ESM General Category. He also wishes to make an attempt to gain mileage from the fact that a number of posts against the ESM General Category are lying vacant. He, however, cannot be permitted to do so.

It is by now well settled that process of selection pertaining to a post would have to be governed strictly as per terms and conditions contained in an advertisement. Stipulation in the advertisement was categorical and there was a specific bar as regard change of category after submission of online application form. It is not a case of a candidate who is a rustic uneducated villager. Petitioner herein is a qualified candidate who had applied for the post of Pharmacist. He ought to have read each and every terms and conditions of the advertisement prior to submission of application form. Having applied against the General Category his candidature has to be confined only against the General Category. Concededly petitioner having participated in the written examination has not achieved the benchmark of 40 marks determined for the General

Category. Accepting the prayer made by the petitioner for change of category after conduct of the written examination would set an unhealthy precedent.

For the reasons recorded above, no merit is found in the instant petition and the same is dismissed.

03.11.2020 **(TEJINDER SINGH DHINDSA)**
dss **JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No