

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

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CWP-18645-2020

Decided on : 05.11.2020

Kuldeep Kaur

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Shailendra Sharma, Advocate
for the petitioner(s).

Ms. Anu Chatrath, Addl. AG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

The petitioner is seeking a writ of *Certiorari* for quashing of condition No.5 of the terms & conditions of Detail of Posts (Annexure P-2) dated 04.08.2020, wherein, it was mentioned that a candidate would not be permitted to change the category filled up while applying for the posts advertised pursuant to letter and detail of posts dated 04.08.2020 (Annexures P-1 & P-2, respectively), as it was arbitrary, illegal, discriminatory and violative of Article 14 of the Constitution of India as well as the principles of natural justice.

Learned counsel for the petitioner submits that the the petitioner applied for the post of Multipurpose Health Worker (Female) pursuant to letter and detail of posts dated 04.08.2020 (Annexures P-1 & P-2, respectively) under the Sports SC (M&B) category vide her online application form (Annexure P-4). On completion of the process, respondent No.3 issued admit cards to the applicants including the petitioner for the written test, which was scheduled to be held on 26th October, 2020. The

petitioner got her admit card on 23rd October, 2020 (Annexure P-5). On receipt of the admit card, the petitioner noticed that inadvertently she had mentioned her category as 'Sports SC (M&B)' instead of 'SC (M&B)'. Since there was hardly any time left for the petitioner to rectify the aforementioned mistake *qua* the wrong category mentioned by her, she took the written test on 26th October, 2020. When the result was declared by respondent No.3 on 28th October, 2020, her name figured in the provisional merit list of Sports SC (M&B) category (Annexure P-7), wherein, she was shown to have secured 52 marks in the written test. On 28th October, 2020, respondent No.3 issued the notice (Annexure P-8) *qua* the dates of counseling for the purpose of verification of the documents of candidates belonging to different categories. The petitioner thereafter approached the recruitment cell of respondent No.3 on 29th October, 2020 and made a request for correction of her category on account of the inadvertent mistake committed by her while filling up the application form. However, respondent No.3 expressed its inability to accede to the request of the petitioner in view of condition No.5 of Annexure P-2 (details of posts), which did not permit any change in a category filled up by the candidates in their application forms. Hence, the writ petition.

It has been urged by the learned counsel for the petitioner that it was an inadvertent mistake, which would cost the petitioner dearly. It has been contended that the *bona fide* mistake on the part of the petitioner is evident from the fact that she had at no point in time in her entire academic career ever participated in any sports and further, if her category is changed to SC (M&B), even though subsequent to the conduct of the written exam, it would not adversely affect the selection of any other candidate, as the

selection had been made purely on the basis of marks obtained by a candidate in the written test. It has been further argued that once an application form has been submitted by a candidate through online process and if a mistake has occurred, the same cannot be rectified through online process, as after the submission of the form, it gets locked. Hence, the denial of respondent No.3 to rectify the mistake bonafidely made by the petitioner, is illegal and against the principles of natural justice.

I have heard learned counsel for the petitioner at length and perused the material available on record.

It would be apposite to refer to the details of posts (Annexure P-2), wherein, following terms and conditions were categorically stipulated:

“Terms and Conditions:

1. to 4. xx xxx xx xxx
 xx xxx xx xxx

5. *Candidates should select their categories carefully, because candidates belonging to categories other than General Category are entitled to fee concession/exemption, age relaxatiion and job reservation.*

The Category once selected/filled will not be changed under any circumstances.

 xx xxx xx xxx
 xx xxx xx xxx.”

A perusal of the aforementioned condition makes is abundantly clear that it was categorically stipulated that under no circumstances the candidature of the candidate would be considered for appointment in a category other than for which he/she had applied in pursuance to Annexure P1 & P-2, respectively.

It is the admitted case of the petitioner that she had received her

admit card on 23rd October, 2020, three days prior to the date when the written examination was scheduled on 26th October, 2020. It has also been pleaded by the petitioner that prior to taking of the examination on 26th October, 2020, she had noticed and was aware that she had mistakenly applied under the Sports SC (M&B) category instead of SC (M&B) category. It is not even the case of the petitioner that on coming to know of the aforementioned inadvertent mistake, she represented to respondent No.3 before taking the written examination on 26th October, 2020, for rectification of the mistake so made by her. Rather, as per her own pleaded case, it was only after the dates for counseling had been notified vide Annexure P-8, that the petitioner for the first time made a representation for rectification of her “inadvertent mistake” from Sports SC (M&B) category to SC (M&B) category. The law pertaining to change of category is no longer *res integra*. Once the selection process has commenced and a candidate has participated in the process by appearing in the written examination, her prayer for change of category cannot be permitted, more so, when the terms and conditions as already reproduced above also clearly stipulate that no change in category would be permitted under any circumstances. A belated claim is being sought to be set up by the petitioner. Reliance can be placed upon **J&K Public Service Commission Vs. Israr Ahmad and Ors., 2005(12) SCC 498**, wherein, the Supreme Court categorically held that once a candidate while filling up his application had opted to take his examination under a particular category, he could not be later on permitted to change his category or be considered under a different category.

Hence, in the wake of the terms and conditions, the candidature

of the petitioner would have to be strictly considered as per the terms and conditions of the details of posts (Annexure P-2). Once the petitioner had herself indicated a specific category “Sports SC (M&B)” and had taken her written examination as well, the petitioner cannot be permitted to change her category at such a belated stage. Needless to add, a candidate is required to be circumspect while filling up an application.

As a sequel to the above, the instant petition is bereft of any merit and stands dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

November 05, 2020

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*