
HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4552 of 2021

Date of decision:09.08.2021

Hari Om

... Petitioner

Versus

Haryana Public Service Commission and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Shreenath A. Khemka, Advocate,
for the petitioner.

(The proceedings are conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

In the present petition, filed under Article 226 of the Constitution of India, the petitioner challenges the result dated 27.08.2020 (Annexure P-4) for not declaring the petitioner selected against the 2nd ESM category post of Assistant Professor (College Cadre) in the subject of Sociology. Resultantly, the challenge is also sought against the vertical bifurcation of the posts of ESM category and a direction is sought for the petitioner's appointment to be made against the 2nd post of ESM category.

Perusal of the paper book would go on to show that apart from various other posts, two posts of Assistant Professors (College Cadre) in the subject of Sociology were advertised against the ESM/DESM category vide Advertisement No.1/2019 dated 08.03.2019 (Annexure P-1), one against ESM-General category and one against ESM-SC category. The petitioner is an ESM-General category candidate, who took part in the selection process and sat in the examination held on 27.01.2020. On the basis of the result of the written examination dated 19.03.2020 (Annexure P-3), candidates, three

times of the number of vacancies, were called for interview and the petitioner's roll number figured in the ESM-General category in the result dated 19.03.2020 (Annexure P-3). Thereafter, vide notice dated 27.08.2020 (Annexure P-4), final result was declared and the two candidates of ESM category, one against the General category and one in the Schedules Castes category, were shown successful. Perusal of Annexure P-5 would also go on to show that the candidate, who was selected against ESM-General category, had secured 67.115 marks, whereas respondent no.3 selected against ESM-SC category, had secured 59.975 marks. The petitioner has secured 62.27 marks, which are less in merit as compared to the ESM-General category and, thus, he is not the successful candidate.

After having willfully participated and taken a chance in the selection process, the petitioner now seeks to challenge the vertical bifurcation, as such, which is not permissible as he has accepted the terms and conditions of the Advertisement Annexure P-1. Having failed to make a place in the merit, as such, the petitioner cannot now contend that the vertical bifurcation is not permissible. It is settled principle of law that a candidate, after having accepted the terms and conditions of the advertisement and taken part in the selection process and, thereafter, not having made the cut, cannot be permitted to challenge the terms and conditions of the advertisement, at the cost of respondent no.3.

A three Judges Bench of the Supreme Court, in the case of **Om Prakash Shukla vs. Akhilesh Kumar Shukla and others**, 1986 Supp. SCC 285, held that once a candidate appears in the examination and subsequently he is not found to be successful, the petition on his behalf challenging the

said examination could not be entertained. The said view was followed in the case of **Madan Lal and others vs. State of J&K and others**, 1995(3) SCC 486.

Only because the result of the interview is not acceptable to the petitioner, now he cannot subsequently contend that the bifurcation or allotment of reserved seats was unfair or there was some lacuna in the process. Reliance in this regard can be placed upon a judgment of the Supreme Court rendered in the case of **Chandra Prakash Tiwari vs. Shakuntala Shukla**, 2002(2) S.C.T. 1093.

In such circumstances, this Court is not inclined to interfere in the selection process by way of entertaining the present writ petition and the same is hereby dismissed in limine.

August 09, 2021
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(G.S. Sandhawalia)
Judge

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No