

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CWP No.5544 of 2021
Decided on : 09.03.2021**

Sudhir Kumar

... Petitioner

Versus

Haryana Staff Selection Commission and others

... Respondents

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

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Samrat Malik, Advocate for the petitioner.

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

G.S. Sandhawalia, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India for challenging the order dated 09.02.2021 (Annexure P-8) passed by the respondent-Commission whereby his request for allocation to the Urban Local Bodies Department regarding the post of Junior Engineer (Civil) has been rejected.

The grouse of the petitioner is that since he had applied under the EWS Category and secured 65 marks which are more than the last selected candidate who secured 60 marks under EWS Category, he should have been given preference for allocation of the said department in pursuance of the advertisement No.10/2019 published on 15.06.2019. The Secretary of the respondent-Commission while deciding the claim of the petitioner in view of the earlier direction issued by this Court in CWP No.11937 of 2020 on 17.08.2020 (Annexure P-7) has noticed that the petitioner had made a cut as of general category candidate and not as EWS Category and therefore, in comparison with respect to the general

category the matter had to be seen. Merely because he had applied in EWS Category he could not compare himself to the candidates of EWS Category.

It is further submitted that he should be given preference of allocation to the said department. It has also been noticed that the last selected candidate under the EWS Category had secured 60 marks. It is not disputed that the once the final result was declared on 06.06.2020 (Annexure P-3) he was found eligible for appointment under the General Category on account of his merit. Therefore, he cannot as such claim parity with the EWS Category while claiming that he has secured higher merit whereas his appointment letter as such (Annexure P-4) dated 09.06.2020 does not show that his appointment is made under EWS Category quota. Reliance placed upon the judgment dated 21.11.2005 passed by the Andhra High Court in case **Dr. B. Kaladhar and others Vs. Government of A.P. Health, 2005 (6) ALT 723**, would be of no help to the petitioner.

A perusal of the same shows that the said judgment pertains to the reservation of seats in Educational Institutions for Post-Graduate and Under-Graduate Courses. The issue was that whether general seats declined by the meritorious reserved candidate who opted for a reserved seat for being filled up by a lower ranked student belonging to the same reserved class for admission and rosters have been put in place. Resultantly, it was held that even if there is any possibility to find fault with the procedure adopted, the said seats as such could not be put to naught. The admissions as such had been granted and it would render all

the seats going waste and, therefore, the course wise roster reservation could not go together, as candidates would chose their fields as per their likes and dislikes. Thus, the said judgment would not be applicable to the facts and circumstances of the present case.

In such circumstances, the order which has been passed by the respondent-Commission is not suffering from any illegality or infirmity which would warrant interference. Resultantly, there is no merit in the present case and the same is dismissed in limine.

09.03.2021

Parveen

(G.S. SANDHAWALIA)

JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No