

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

**CWP-8165-2021 (O&M)
Date of Decision:09.04.2021**

Poonam

... Petitioner

Vs.

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Amit Dhanda, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

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

Petitioner had applied for the post of Junior System Engineer under the DHBVN pursuant to advertisement dated 05.07.2019 (Annexure P-1) issued by the Haryana Staff Selection Commission.

Instant writ petition has been filed seeking a mandamus for directing the respondents to give to the petitioner the benefit of 5 additional marks towards socio-economic criteria and to thereafter place the petitioner at the appropriate place in the final result/select list.

Counsel submits that at the stage of submitting online applications for the post in question, petitioner in the relevant column had indicated that her father was in government service. However, subsequently on 08.11.2020, petitioner had got married and since neither her spouse nor any member of her matrimonial family being in service of any State Government department/Board/Corporation/Company/Statutory Board/Commission/Authority, she had furnished a fresh undertaking at the stage of

scrutiny of documents so as to avail of the benefit of 5 additional marks towards socio-economic criteria but such fresh undertaking has not been accepted.

Counsel submits that even though an order in this regard has not been passed in writing and conveyed to her but the concerned officials who were conducting the document verification exercise have refused to entertain the fresh undertaking.

It is against such backdrop that the instant writ petition has been filed seeking a mandamus for directing the respondent/authorities to award to her the benefit of 5 additional marks towards socio-economic criteria while computing the final merit in the selection process for the post in question to which the petitioner had applied.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the prayer made in the instant petition does not merit acceptance.

It is by now well settled that the cut off date by a reference to which the eligibility requirement must be satisfied by a candidate seeking employment is the date appointed by the Rules and if there be none, then, such date as may be appointed for the purpose in the advertisement calling for applications and if there be no such date fixed in the advertisement, then, the eligibility would be with reference to the last date by which the applications have to be received by the Recruitment Authority/Agency. A reference in this regard may be made to the judgment of the Apex Court in the case of **Bhupinder Pal Singh Vs. State of Punjab & others, 2000 (2) SCT 826.**

It is against such settled position of law that the claim of the

petitioner would need to be examined.

The advertisement dated 05.07.2019 published by the Haryana Staff Selection Commission has been placed on record at Annexure P-1. In terms of the advertisement, online applications were invited for direct recruitment for 2978 posts of DHBVN, UHBVN and HVPNL including 146 posts of Junior System Engineers under the DHBVN. Out of such 146 post, 63 posts were to be filled up from the general category. The essential qualifications for the post were detailed out in the advertisement itself. Selection process comprised of a written examination carrying a maximum 90 marks. That apart, a total of 10 marks were earmarked for socio-economic criteria and experience were to be allocated as follows:

“(iii) The 10 marks for socio-economic criteria and experience shall be allocated as follows:

a. If neither the applicant nor any person from among the applicant's family viz father, mother, spouse, brother and son is, was or has been regular employee in any Department/ Board/Corporation/ Company/ Statutory Body/ Commission/ Authority of Government of Haryana or any other State Government of Government of India.

b. If the applicant is:-

- 1. a widow; or*
- 2. the first or the second child and his father had died before attaining the age of 42 years; or*
- 3. the first or the second child and his father had died before the applicant had attained the age of 15 years.”*

(5 marks)

c. If the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe of the State of Haryana which is neither a Scheduled Caste nor a Backward Class.

(5 marks)

d. Experience:

One half (=0.5) mark for each year or part thereof exceeding six months of experience, out of a maximum of sixteen years, on the same or a higher post in any Department/Board/Corporation/Company/Statutory Body/Commission/Authority of Government of Haryana. No marks shall be awarded for any period less than six months.

(A maximum of 8 marks)

Note: No applicant shall be given more than 10 marks for socio economic criteria and experience under any circumstances.”

Clause 1.2 (i) of the advertisement would be relevant to the issue at hand and reads as follows:

*“Candidates who do not fulfill the qualifications/eligibility conditions on the cut off date, their applications shall not be accepted by the online application system. **All the certificates/documents relating to educational qualifications/eligibility conditions and socio economic criteria etc. will be determined with regard to the last date fixed to apply online applications also call as closing date i.e. 25.07.2019 given in the advertisement.**”*

The afore noticed stipulation in the advertisement was coined in clear and unambiguous language. The marks towards socio-economic criteria etc. and eligibility in relation thereto, was to be reckoned in relation to the closing date i.e. 25.07.2019.

Petitioner at the stage of submitting online application form had clearly indicated that her father was in government service. By virtue of the prayer raised in the instant petition, she is wanting to gain advantage by virtue of change of circumstances that took place on 08.11.2020 when she got married. As per the specific condition reproduced herein above contained in the advertisement, the eligibility even as regards socio-economic

criteria has to be seen as per closing date i.e. 25.07.2019. Petitioner cannot claim 5 additional marks under the socio-economic criteria on account of her marriage which took place on 08.11.2020 i.e. much later than the closing date for determination of the eligibility i.e. 25.07.2019.

Counsel has raised a submission that even though the condition in the advertisement was categoric but in practice, the Commission is taking the date of scrutiny of documents as the relevant date insofar as award of marks for socio-economic criteria. Such assertion has gone unsubstantiated as no instance in such regard has been cited in the petition and neither has any document in support of such contention been placed on record. In any event, such practice would be contrary to the specific condition in the advertisement as also in violation of the dictum laid down in **Bhupinder Pal Singh's case (supra)**.

In view of the reasons recorded above, the mandamus prayed for grant of 5 additional marks towards socio-economic criteria is declined.

Suffice it to take note that the petitioner claims that on the basis of a self assessment by matching her response(s) in the written examination with the answer key that was put in public domain, she has secured 90 marks out of 90. In case, such assertion is factually correct and the petitioner who otherwise belongs to the general category falls under the zone of consideration based upon her performance in the written examination, the consequences then would flow.

Petition is dismissed.

09.04.2021

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

1. Whether speaking/reasoned?

Yes/No

2. Whether reportable?

Yes/No