

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

CWP No.9692 of 2021

DATE OF DECISION : 12.05.2021

Neha

...Petitioner

Versus

Haryana Staff Selection Commission

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ravinder Singh Saroha, Advocate
for the petitioner.

Mr. Tapan Kumar, D.A.G., Haryana.

(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

Grievance of the petitioner, a candidate for the post of Lower Division Clerk, is that despite her having successfully cleared the written examination and having scored higher marks than the last selected candidate in the General category, she has been not been offered the job. Notwithstanding, that she is more meritorious.

2. On a Court query, as to how does the petitioner claim to have secured more marks than the last selected candidate, learned counsel for the petitioner contends that the petitioner has verified her score from the online answer key uploaded by the respondent. After cross checking the questions attempted by the petitioner vis-à-vis the correct answers, she is stated to have scored 89 marks out of 90.

3. As per the advertisement, out of total of 100 marks, 90 are categorised for written examination and 10 marks allocated to Socio Economic background. Merit list has been prepared by adding the marks secured in both these categories.

4. Learned counsel for the petitioner contends that not a single General Category candidate has been selected as per final result. Only those candidates having a poor Socio Economic background have been selected after awarding the marks for the same. Thereby, practically reserving 100 percent posts for candidates belonging to poor Socio Economic back round. Additional marks given to them has resulted in their stealing a march over those general category candidates who did not belong to the poor Socio Economic background, even though otherwise they are concededly more meritorious.

5. Mr. Tapan Kumar, learned Deputy Advocate General, Haryana, on advance service joins the proceedings on behalf of the respondent.

6. Learned DAG strenuously argues that having unsuccessfully participated in the selection process, the petitioner cannot at this stage, challenge her non selection after the final result has been declared. He further argues that the petition has been filed on the wrong premise that not a single general category candidate has been selected.

7. My attention has been drawn to the final result published by the Haryana Staff Selection Commission (respondent), which is self-speaking. A perusal thereof would reveal that total 495 posts of Lower Division Clerks were advertised, out of which, 104 candidates have been selected in General category and likewise, 126 in Scheduled Caste Category, 86 in BC-A (Backward Class-A), 51 in BCB (Backward Class-B), 26 from EWS (Economically Weaker Section), 18 in ESM General (Ex-Servicemen-General), 17 in ESM SC (Ex-Servicemen-Scheduled Caste), 18 in ESM BCA (Ex-Servicemen Backward Class-A), 26 in ESM BCB (Ex-Servicemen Backward Class-B) so on and so forth. It is thus clear that candidates belonging to various categories have been accorded the benefit of their belonging to such categories.

8. Assuming that the petitioner has secured 89 marks out of 90, admittedly she does not belong to any of the sub categories of Socio Economic back round as per the advertisement. Therefore, she has rightly been awarded zero out of 10 marks. Whereas certain other general category candidates, who fitted into poor Socio Economic criteria have been given additional marks out of 10, as per their sub category. Resultantly, their aggregate marks, after adding the marks scored out of 10 with the ones scores out of 90 in written examination, brought them higher in the merit list. In the premise, it would therefore be

wrong to assert that no General Category candidate has been selected. What has to be seen is the joint outcome of marks obtained in written examination in General Category, coupled with the marks as per Socio Economic Criteria. The same may though result in an anomalous situation, if merit alone were to be seen. In as much as, a candidate who may have secured 100% marks in written examination i.e. 90 marks out of 90 may still not be selected for not having poor Socio Economic back round. Illustratively speaking, in the event any parent of a candidate is a government official, he would get zero marks out of 10. *Prima facie*, appears to be a case of reverse discrimination.

8. Per the conditions imposed by the Haryana Staff Selection Commission for the Socio Economic Criteria, ward of even a Class IV Government employee i.e. peon/sweeper would not be entitled to any benefit thereof, even if he/she has secured 100% marks in written examination in general category.

9. Be that as it may, the afore said anomaly, being not under challenge in the instant petition, is left open to be decided in some other appropriate proceedings. Even in the case in hand, petitioner's father is stated to be a Government official serving in Haryana Police as Sub Inspector. However, as already stated neither the advertisement nor the criteria adopted by the respondents is under challenge before this Court.

10. At this stage, learned counsel for the petitioner seeks permission to withdraw the writ petition with liberty to challenge the criteria adopted by respondent-Haryana Staff Selection Commission.

11. Dismissed as withdrawn with liberty aforesaid.

(ARUN MONGA)
JUDGE

MAY 12, 2021
gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No