

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

CWP No.17009 of 2021

Decided on : 12.11.2021

Ravi Dutt

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr.Jasbir Mor, Advocate, for the petitioner.

G.S. Sandhawalia, J. (Oral)

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for considering the candidature of the petitioner under the ESM (DESM)-BCB Category, for the post of Art & Craft Teacher and to call him against the said category in terms of the notice dated 10.03.2021 (Annexure P-13).

For the said relief, this Court is of the opinion that petitioner cannot be permitted to blow hot and cold and is bound by the principle of estoppel. It is not disputed that as per the initial advertisement dated 20.07.2006 (Annexure P-1), petitioner himself applied under ESM General Category candidate against Roll No.10001194 and was appointed on 04.05.2010 (Annexure P-7) wherein his name finds mention at Sr.No.27 in the category of DESM.

It is not disputed that in pursuance of the said appointment, he served the State till **CWP-18482-2010** titled *Suman Kumari Vs. State of Haryana & others* decided on 20.02.2015, vide which the selection to the post of Art & Craft Teachers was set aside. The matter was taken before the Division Bench in **LPA-359-2015** titled *Vinod Kumar & others Vs. State of Haryana & others* (Annexure P-8), decided on 10.11.2020, upholding the said order. The Division Bench, however, had protected the earlier appointments

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to the extent that the said persons were to be given a fresh chance as had been given a chance in **Ramjit Singh Kardam Vs. Sanjeev Kumar & others 2020 (2) SCT 491** pertaining to the Physical Training Instructors. The SLP No.14481 of 2020 titled Vijay Pal & others Vs. Mohan Lal & others was dismissed on 14.12.2020.

In pursuance of the said directions, fresh notice was issued on 28.12.2020 and the petitioner again gave the examination on 31.01.2021. Now, he seeks change of his category to the post of ESM (DESM)-BCB on the strength of certificates issued in his favour.

Thus, it would be clear that the petitioner served for 10 years against the said post having been appointed against the post of ESM-General Category. He had never, at any point of time, put-forth his case that he was entitled for appointment against ESM (DESM)-BCB category. Merely because he was called for scrutiny on the basis of a resolution of the Haryana Staff Selection Commission held on 04.03.2021 (Annexure P-16) which had permitted the candidates to come and prove their eligibility on or before the cut-off date, at the time of the interview by lowering the bench-mark for the purpose of scrutiny only, would not give him a right to change his category.

In such circumstances, this Court is of the opinion that the present writ petition is liable to be dismissed in limine rather than calling the respondents to file reply. Ordered accordingly.

November 12, 2021

Sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No