

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

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CWP No.21116 of 2020

Decided on : 26.02.2021

Manoj Kumar

... Petitioner

Versus

State of Haryana and another

... Respondents

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

Present: Mr. M.S. Saini, Advocate for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

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

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks quashing of the selection of Clerks on the basis of final result dated 03.09.2020 (Annexure P-7). The same is against Advertisement No.5 of 2019 (Annexure P-1) and the petitioner was a candidate of BCA Category.

On 09.12.2020, following order was passed:-

“Inter alia contends that the petitioner is aspirant against the post of Clerk in the BCA Category as per the advertisement dated 20.06.2019 (Annexure P-1). He secured 65 marks in the written examination (Annexure P-5) and the last selected candidate as per the final result dated 03.09.2020 (Annexure P-7), has also obtained 65 marks. Application under RTI Act, 2005 dated 08.09.2020 (Annexure P-6) was given which was replied on 12.10.2020 that result of ESP and other category (196 posts) have been withheld due to which this result is partial and after finalization the ESP & other category result, the detail with marks will be uploaded on the website of the Commission. It is, thus submitted that petitioner has nothing to do with other categories but he has not selected.

Notice of motion.

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Mr. RKS Brar, Additional AG, Haryana accepts notice on behalf of the State-respondents and prays for time to file short affidavit regarding this aspect.

Adjourned to 14.01.2021.”

In the reply filed by the respondent No.2-Commission, it is submitted that the petitioner has secured 65 marks, which was equal to the last selected candidate. However, on account of the petitioner being younger having been born on 29.12.1988 and the last selected candidate who is elder in age having been born on 08.03.1986, he has not made the cut. The resolution dated 25.09.2015 adopted by the Selection Committee has been appended as Annexure R-2/3 that the older in age will get preference than younger one, in which reliance had been placed upon the judgment of the Apex Court passed in the case of '**Prem Singh Vs. Haryana State Electricity Board, 1996 (4) SLR 661.**

Keeping in view the above, there is no merit in the present writ petition and the same is dismissed.

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

FEBRUARY 26, 2021
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No