

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

-.-

**CWP-27775-2018 (O&M)
Date of decision : 14.12.2021**

Pawanpreet Singh

.....Petitioner

versus

Punjab State Power Corporation
Limited (PSPCL) & Others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Parvesh K. Saini, Advocate for the petitioner.

Ms. Anu Chatrath, Senior Advocate with
Mr. Nishant Maini, Advocate for respondents No.1 to 3.

Mr. B.S. Patwalia, Advocate for respondent No.4.

ALKA SARIN, J.

Taken up in physical mode.

The present civil writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ in the nature of mandamus directing the respondent-PSPCL to consider the petitioner for selection and appointment to the post of Sub-Station Attendant (SSA) on the basis of the Government Instructions dated 22.10.2009.

The brief facts relevant to the present *lis* are that respondent No.1 – Punjab State Power Corporation Limited (hereinafter referred to as 'PSPCL') issued an advertisement dated 20.12.2017 (Annexure P-1) inviting online applications for the recruitment of Sub-Station Attendant (SSA) against 253 posts along with the recruitment of 300 Junior Engineers/Electrical. The advertisement also gave a tentative category wise

detailed break-up of the posts available. As per the chart, which is part of the advertisement dated 20.12.2017, 2 for the Sub-Station Attendant, 5 posts were reserved for SC Others (SC) and 2 posts were for SC Sports Person(SC/SP). A specific note was given in the advertisement dated 20.12.2017 which reads as under:-

“Candidates are advised to read the bifurcation of the categories very carefully before filling up the online application as category/sub-category once filled cannot be changed to any other category including general category.”

Regarding the reservation of the posts, it was mentioned against Sports Person that a relevant certificate regarding gradation as issued by the Director Sports Department, Punjab would be required. The petitioner admittedly applied under the category of SC Others Sports Person (SC/OT/SP). The E-Admit Card issued to the petitioner (Annexure P-5) also specified his category as “SC Others Sports Person – SC/OT/SP”. The written examination was conducted on 27.02.2018 and as per the combined merit list for Sub-Station Attendant (Annexure P-6) the petitioner figured at Merit No.186 with a score of 60.750 marks with his category mentioned as SC/OT/SP. Thereafter, the petitioner figured on the list of candidates (Annexure P-7) who were called for document checking for the post in question wherein the petitioner’s name figured at Merit No.177 and his category was mentioned as SC/OT/SP. The petitioner is stated to have appeared for document checking on 07.06.2018 and all the original documents of the petitioner were checked and found correct by the Document Checking Committee and vide letter dated 07.06.2018 (Annexure P-8) he was asked to submit his Residence Certificate with the stay period.

The case as set up by the petitioner in the writ petition is that on the day the petitioner appeared for document checking i.e 07.06.2018, he was informed that he would be placed at 4th Rank after Serial No.134 in the category of SC/OT Merit List as the petitioner could not be considered in the SC sports quota because the petitioner had a D-Grade sportsperson certification instead of the minimum C-Grade as required by the Rules. It is further the case of the petitioner that the petitioner was informed by the Document Checking Committee that 5 SC/OT candidates would be shifted to general category because of their own merit. It has further been averred that the petitioner approached the respondent-PSPCL on 14.08.2018 and requested for the issuance of an appointment letter but he was told that the appointment letter would be issued within a few days. However, no such letter was received. The petitioner is stated to have again visited the office of the respondent-PSPCL on 28.08.2018 when he came to know from the concerned officials that he (the petitioner) had not been considered in the SC/OT category because only sportspersons possessing at least C-Grade certificate were eligible for the post of Sub-Station Attendant. It is further stated that the petitioner explained to the concerned officials that since no minimum gradation certificate had been prescribed in the advertisement (Annexure P-1), therefore, he applied against the reserved category meant for sports person and if a minimum C-Grade certificate for sports persons had been clearly prescribed in the advertisement then the petitioner would have not applied against the SC sports quota and, therefore, in the absence of a clear stipulation of a minimum C-Grade certificate in the advertisement (Annexure P-1) the petitioner was entitled to be considered in the SC/OT quota for his selection and appointment. The petitioner also submitted a

representation dated 28.08.2018 (Annexure P-9) for being considered against the SC/OT quota for the post of Sub-Station Attendant. Since there was no response to the said representation, the petitioner has approached this Court.

Learned counsel for the petitioner has contended that firstly, there were no specific instructions regarding the category of gradation certificate required for applying under the SC/OT/SP quota and had it been specified in the advertisement (Annexure P-1) that a minimum C-Grade sports gradation certificate was required the petitioner would not have applied. The second argument which has been raised by the learned counsel for the petitioner is that even if in case he was not eligible for the Scheduled Caste Sports category, he ought to be considered in the Scheduled Caste Others category. In order to buttress his arguments, the learned counsel has relied upon the judgments passed by this Court in **Gurpreet Singh Chauhan Vs. State of Punjab &Ors.** [CWP-9135-2011 decided on 04.05.2018] and **Gurdit Singh Vs. Punjab State Civil Supplies Corporation Limited through its Managing Director & Ors.** [CWP-12184-2015 decided on 29.03.2019].

Replies have been filed on behalf of respondent Nos.1 and 2 and respondent No.4 (the private respondent). The stand taken by respondent Nos.1 and 2 in their written statement, as also contended by the learned Senior Counsel representing them, is that the petitioner had applied specifically under the SC Sports category and since his candidature was rejected due to him having a D-Grade sports gradation certificate at the District Level, the petitioner cannot now turn around and say that he should be considered in the SC Others category. It has further been contended that

as per the advertisement, 25 seats were kept reserved for SC/OT and 2 seats were kept reserved for SC/SP. It is clearly stated in the advertisement that the category once filled in the application form would not be allowed to be changed and no benefit of any other category including general category would be admissible later on. It is further the contention that the petitioner, who had secured 60.750 marks in the online examination, stood first in the merit list of SC/OT/SP category and accordingly was called for scrutiny of original documents. However, his eligibility stood rejected by the Director Sports, Punjab vide his Memo No.8105 dated 09.07.2018 since the petitioner had a D-Grade sports gradation certificate at the District Level.

Learned counsel appearing on behalf of respondent No.4 (the private respondent) has referred to his written statement wherein a preliminary objection has been taken stating therein that a false averment had been made by the petitioner on the first date of hearing wherein it had been contended that the petitioner had applied in two categories i.e SC/OT and SC/SP. It has further been pointed out that on the said basis, vide order dated 30.11.2018, one post of Sub-Station Attendant in SC (R&O) category, if available, was ordered to be kept in abeyance. The said interim order, however, stood vacated vide order dated 07.02.2020. It is further the contention of learned counsel for respondent No.4 that at no time was an objection raised by the petitioner that his merit was only reflected in the SC/OT/SP as the petitioner was well aware that he had only applied under the SC/SP category and his candidature stood correctly rejected in view of the Sports Gradation Policy of the Year 1997.

Both, the learned Senior Counsel appearing on behalf of respondent Nos.1 and 2 and the learned counsel appearing on behalf of

respondent No.4, stated that the judgments relied upon by the counsel for the petitioner are not applicable to the facts of the present case inasmuch as in the case of **Gurpreet Singh Chauhan** (*supra*), the question involved was that in a case where eligible candidates for filling up of reserved post meant of Scheduled Caste (Ex-servicemen) and Scheduled Caste (Sportsmen) are not available then these posts shall stand reverted to the General Category of Scheduled Caste and would be filled up from eligible candidates of scheduled castes. The action of the State in filling up the vacancies from the eligible candidates of scheduled castes was upheld. It has further been contended that even the case of **Gurdit Singh** (*supra*) was distinguishable inasmuch as in the said case the candidate had been considered ineligible in the sports category and on his being declared ineligible in the sports category it was held that he would immediately shift to the general category.

Heard.

In the present case the undisputed facts are that the petitioner had applied in the SC/OT/SP category, which is a sub-category of the Scheduled Caste category. The petitioner specifically chose to apply under the said category as has also been reflected in his E-admit card (Annexure P-5). A perusal of the advertisement (Annexure P-1) also clearly reveals that it has been stated therein that a candidate should read the bifurcation of the category very carefully in the category/sub-category which, once filled, cannot be changed.

The petitioner was considered as not fulfilling the eligibility conditions in the sports category since he had a D-Grade sports certification. As per the procedure laid down in the Sports Gradation Policy No.47/26/83-5 EDU/2036 dated 10.12.1997, the final merit list of the sports person

category is to be prepared only by the Director, Sports Department, Punjab on the basis of their sports achievement. The advertisement (Annexure P-1) contains an important note stating *“As per Sports gradation policy no.47/26/83-5Edu/2036 dated 10.12.1997, the final merit list of Sportsperson Category candidates is to be prepared only on the basis of sports achievements. After the process of document checking of candidates of Sportsperson category qualified in the online exam, their Sports Gradation certificates will be send to Director/Sports, Punjab for verification. Therefore, in view of guidelines issued vide this policy cannot be ignored and final list of Sportspersons will be issued by Sports Directorate only. Further, marks secured in the online exam by the candidates are considered only in the case when sports achievement of one or more sportsperson is same”*. The petitioner was expected to have read the instructions clearly before filling his category and hence it does not now lie in his mouth to state that there was no mention that a D-Grade sports gradation certificate would not be accepted. In the reply filed by respondent Nos.1 and 2 it has been stated *“The Director, Sports, Punjab vide its memo no.8105 dated 09.07.2018 has rejected the eligibility of the petitioner being D-Grade holder of Sports Gradation Certificate at District Level as under 1988 sports achievements of particular level are required as per category of post in question”*. No replication has been filed by the petitioner denying this fact nor were any submissions made to controvert this argument. Hence, the argument raised by learned counsel for the petitioner that the non-mentioning of the fact that a ‘D’ grade sports gradation certificate would not be accepted in the advertisement is of no avail and hence stands rejected.

The second limb of the argument raised by the learned counsel for the petitioner that the petitioner deserves to be now considered in the SC/OT category can also not be accepted for the reason that the petitioner had firstly opted for a specific sub-category i.e. SC/OT/SP category. Having once opted for a category, as per the advertisement, the said category/sub-category could not be changed. Hence, the petitioner cannot now turn around and claim that since he was found ineligible in the SC Sports category he should now be considered in the SC General category. The reliance of the learned counsel on the judgment of this Court in the case of **Gurpreet Singh Chauhan** (*supra*) would also be of no help in furthering his arguments inasmuch as a totally different issue was involved in the said case. In the said case it was held that where eligible candidates for filling up of reserved post meant of Scheduled Caste (Ex-servicemen) and Scheduled Caste (Sportsmen) were not available then the said posts would stand reverted to the General Category of Scheduled Caste. The Court in the said case had upheld the action of the State in converting the vacant posts under the Scheduled Caste (Ex-servicemen) and Scheduled Caste (Sportsmen) category to General Category of Scheduled Caste. In the case of **Gurdit Singh** (*supra*) the question was whether a person who had applied under the Sports category and was held ineligible would be eligible to be considered in the General Category.

In the present case what the petitioner is wanting is not to be considered in the general category having been rejected in the SC Sports category but is wanting to be considered in another reserved category which cannot be permitted inasmuch as firstly, there is a categoric bar to the change of categories/sub-categories once filled in by the candidate and,

secondly, if the petitioner is now considered in the SC General category then that would lead to redrawing the merit list which may lead to displacing those already in the SC General category on the waiting list or even such candidates already appointed.

In view of the above, I do not find any merit in the present writ petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

14.12.2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO