

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25407-2021

Date of Decision: 15.12.2021

Avinash Yadav

....Petitioner

Versus

Haryana Public Service Commission and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Rajesh Arora, Advocate,
for the petitioner.

AJAY TEWARI, J. (Oral)

1. By this petition, the petitioner is aggrieved of the fact that he has not been declared successful in the preliminary examination for the post of Civil Judge (Junior Division) in the Haryana Civil Service (Judicial Branch) Examination in the BC-B category.

2. The admitted facts of the case are that the petitioner appeared in the preliminary examination and obtained 323.20 marks but the cut-off marks for the BC-B category ended at 333.60 marks. In the General category, the cut-off was 356 marks. The contention of the petitioner is that there are many candidates in the BC-B category, who have obtained more than 356 marks and if they are moved into the General category then the petitioner would come within the merit of the BC-B merit list.

3. The last part of paragraph 12 of the advertisement is reproduced herein below:-

“The object of the Preliminary Examination is to shortlist the candidates for the Main Examination. No candidate shall be allowed to appear in the Main Examination unless he/she secured minimum 150 marks (read 100 marks for all reserved category candidates) in the Preliminary Examination. The marks obtained in the Preliminary Examination shall not be counted towards

final result. Candidates equal to 10 times the number of vacancies advertised, selected in order of their merit in the respective categories shall become eligible to sit in the Main Written Examination. However, the number shall be subject to variation. If two or more candidates at the last number (the number at the end) get equal marks, then all of them shall be considered eligible to sit in the Main Written Examination, warranting the corresponding increase in the stipulated ratio.”

4. In our considered opinion, the contention must fail.
5. The principle that reserved category candidates should be moved upto the General category in the event of their getting adequate merit has to be seen at the stage of appointment or when the vacancy is consumed. At this preliminary stage, it would not be possible to shift all the BC-B category candidates, who have obtained higher cut-off marks to the General category for the simple reason that this is a premature state.

If the argument of the petitioner is accepted, it could lead to great injustice because the candidate who is shifted upto the General category on the basis of the preliminary examination and does not attain the requisite merit in the main examination and the viva voce would then be dis-entitled to claim a seat in the BC-B category. Learned counsel has relied upon the judgment of this Court in the case of **Ajit Singh Vs. State of Haryana and other, 2012(1) RSJ 433**, in which the Division Bench held as follows:-

“In view of the judgments referred to above, the following principles can be culled down:

(i) The reservations for Physically Handicapped, Ex-servicemen, dependants of freedom fighters and women etc. are the horizontal reservations.

(ii) The candidates belonging to horizontal reservations will cut across the vertical reservations in the following manner:

(a) Firstly the seats for Open Category candidates will be filled up on the basis of merit;

(b) Secondly, the seats meant for vertical reserved categories will be filled up on the basis of merit in their own quota;

(c) Thirdly, the seats equal to the number of the candidates belonging to horizontal reserved category and also falling within vertical reserved category, shall stands consumed in the vertical reserved category. The candidate lower in vertical reserved category will make way for him;

(d) Fourthly, if a candidate belonging to horizontal reserved category does not belong to any of categories of reservations, a candidate in the open category will make way for such reserved category so as to satisfy quota of the seats meant for the horizontal reserved category.

(e) Lastly, in case of women candidates, who also fall within any one of special reservations or social reservations, such candidate shall be taken into consideration for determining the quota for both women and social reservations.”

6. It is interested to note that in this case, the stage at which the upward movement was demanded at the stage of final selection and not at the stage of the preliminary examination.

7. Finding no merit in the case, the petition is dismissed.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

15.12.2021

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Whether speaking/non-speaking :	Yes/No
Whether reportable :	Yes/No