

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 31 of 2020 (O&M)

Date of Decision:31.03.2022

Suman Khatri

.....Petitioner

Versus

Haryana Public Service Commission and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vikram Sheoran, Advocate
for the petitioner.

Mr.Vishal Verma, Advocate
for Mr. Prateek Gupta, Advocate
for respondents no.1 and 2.

Mr. Kiran Pal Singh, AAG., Haryana.

LISA GILL, J(Oral).

Prayer addressed in this writ petition is as under:-

- “i.) issue a writ in the nature of certiorari for quashing/setting aside the Office order dated 30.12.2019, Annexure P-10 , vide which candidature of the petitioner for the College Cadre Post of Assistant professor (Political Science) (OH) in Higher Education Department, Haryana, published by respondents vide Advertisement No. 1/2019 dated 08.03.2019, Annexure P-1, has been rejected on the ground that petitioner has not claimed PH (OH) Category in the Online Application form despite the fact that the petitioner has been declared succeeding candidate under PH (OH) Category itself in the final result dated 12.12.2019 , Annexure P-7 and the petitioner has not called for interview scheduled on 07.01.2020 and 08.01.2020, which is wrong, illegal, arbitrary, against the principles of natural justice;
- ii.) further issue the writ in the nature of mandamus directing the respondents to allow the petitioner to

appear in interview for the above said post held on 07.01.2020 and 08.01.2020 as the petitioner is succeeded candidate under PH (OH) Category obtaining higher marks i.e., 62 marks among all the three appearing candidates in General (OH) Category in Recruitment/Screening Test held on 03.10.2019, vide final result dated 12.12.2019, Annexure P-7.

- iii.) further issue the writ in the nature of mandamus directing the respondents to keep the College Cadre Post of Assistant Professor (Political Science) which is single post during the pendency of present writ petition; AND/OR
- (iv.) any other Order, direction or relief, which this Hon'ble Court deems fit and proper in the peculiar facts and circumstances of the instant case."

The petitioner admittedly applied for the post of Assistant Professor (College Cadre) in Higher Education Department, Haryana, through Advertisement No. 1/2019 dated 08.03.2019 under the 'General' Category. It is stated that at the time of filling up the application form, she inadvertently filled up 'NO' in place of 'YES' in Column no. 24 (PH Category) of the application form. Admit card was accordingly issued to the petitioner under the General Category. Petitioner enquired about the same and representation in this regard is stated to have been submitted by her.

Admittedly, petitioner took the written test held on 03.10.2019 on the basis of this admit card. Learned counsel submits that petitioner secured 62 marks, which are over and above the other two candidates who applied for the same post, however petitioner got a great set back when her name did not find mention in the announcement for interview dated 26.12.2019, Annexure P-8. Petitioner submitted a representation on 27.12.2019 in this regard, but to no avail.

Learned counsel for the petitioner argues that the petitioner due to an inadvertent mistake, mentioned her category as General in her application form and when her admit card was issued reflecting the category to be General, she immediately submitted an application dated 01.10.2019 before the respondent-Commission seeking change of category. Though, it is noticed that receipt of this application is specifically denied in the written statement filed on behalf of respondents no.1 and 2, learned counsel for the petitioner submits that there is no doubt about the petitioner suffering from disability of 45%. Reference is made to Medical Certificate, Annexure P-3, to buttress his arguments. Learned counsel for the petitioner submits that once the petitioner is found to be physically handicapped, there is no impediment in the change of category and relief should not be denied to the petitioner merely on the ground that she has incorrectly mentioned her category in the application form. It is thus prayed that this petition be allowed.

Learned counsel for the respondents while refuting the arguments raised by learned counsel for the petitioner, submits that once having opted for participating in the selection process under one category, it is not open to a candidate to seek change in the said category at a later stage. The petitioner, it is stated has attached a copy of Medical Certificate dated 03.12.1998 with the present writ petition, which cannot be relied on at this stage. Learned counsel for the respondents while referring to the written statement filed on behalf of respondents no.1 and 2, submits that receipt of representation dated 01.10.2020 is categorically denied. The admit card of the petitioner was issued under the general category, but the petitioner in an absolutely incorrect and *mala fide* manner stated her category to be PH(OH) in her OMR sheet, which was clearly contrary to the category mentioned in

her admit card. It is due to this reason that the result of the petitioner was declared under the PH(OH) category reflecting her as an eligible candidate. This mistake occurred as scanning of the OMR sheets is computerized and it is only on subsequent verification of the online application form/documents, it was found that petitioner had submitted the application form under the general category and roll number for the recruitment test was also issued under the general category. It is on this account that the petitioner's candidature was rejected on 30.12.2019. Claim of the petitioner securing 62 marks is stated to be baseless as the marks are not stated to have been uploaded on the respondent-Commission website. Therefore, this writ petition being devoid of any merit, it is prayed, should be dismissed.

I have heard learned counsel for the parties and have gone through the file. In my considered view, there is merit in the stand taken by the respondent-State that it is not open to a candidate to seek change of category to PH (OH) at a belated stage having first participated in the selection process till the final result as a general category candidate.

It has been held by Hon'ble Supreme Court in **J & K Public Service Commission Vs. Israr Ahmad and others, 2005(1) SCC 498**, that once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make a fresh claim.

It is specifically mentioned in the advertisement Annexure P-1 that a candidate can submit only one online application form for a particular category of the post advertised. Admittedly, petitioner in the present case, in her application form submitted pursuant to advertisement no. 1/2019 dated 08.03.2019, has stated her category to be 'General' and not PH (OH). It is the petitioner's case that after receiving the admit card on 03.10.2019, she came to know about the said mistake and she requested for change of her category

from General to PH(OH). However, receipt of this application is categorically denied and there is nothing on record to indicate the mode or proof of its submission. Furthermore, without there being any change in her category the petitioner proceeded to mention her category as PH(OH) without any justification. Argument raised on behalf of the petitioner that once the result of the petitioner was declared on 12.12.2019 under the PH(OH) category reflecting her to be an eligible candidate, she should be considered under the said category is indeed a fallacious and misconceived argument. It is apparent from the record that without there being any change of category, the petitioner on her own mentioned her category to be PH (OH) on her OMR Sheet despite her admit card mentioning her category to be general.

It is succinctly explained by the respondents that the petitioner's result was declared under the PH(OH) category on account of the computerized scanning of the OMR sheets and once the error was detected, candidature of the petitioner has been rejected. Another argument raised on behalf of the petitioner that her NET certificate mentions 'PWD' i.e., Person With Disability, therefore it was incumbent upon the respondents to consider the petitioner under the PH(OH) category, is equally devoid of merit, hence rejected. This is so for the reason that the respondents are under no duty or obligation to consider a candidate under a particular category in view of the categorical assertion in the application form regarding the category under which the candidate applies. Petitioner has applied for the post of Assistant Professor in Political Science under the general category and it is expected that application form would be correctly filled by a candidate applying for such a post. Merely to say that it is due to an inadvertent error that the category was mentioned as general, therefore relief should be afforded to the

petitioner is an argument which cannot be countenanced. The same is hence rejected.

In similar circumstances, coordinate Benches of this Court have rejected similar claims in **Kuldeep Kaur Vs. State of Punjab and others, 2021(3) SCT 20 and vide order dated 22.05.2018 in CWP-15119- 2016, titled as Shashi Vs. State of Haryana and others.**

No other argument has been addressed.

Accordingly, this writ petition is dismissed being devoid of merit.

31.03.2022

s.khan

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

[LISA GILL]
Judge