

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

CWP-4309-2019 (O&M)

Date of decision: October 21, 2022

Dev Pal

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Deepika, Advocate for
Mr. Ram Darshan Yadav, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing respondents to correct the category as BC 'B' instead of BC 'A' of the petitioner because same was inadvertently written in online application, in accordance with law, within a week.

2. Vide order dated 20.02.2019, while issuing notice of motion, my learned Sister Ritu Bahri, J. (as she then was seized of the matter) passed the following order:

“The petitioner has participated for the group-D post under the BCB category. However, inadvertently in the application form, he had mentioned his category as BCA. The final result has been declared on 19.01.2019 (Annexure P-4). The petitioner has secured 66 marks and the last selected candidate under the BCA category has secured 63 marks and the last selected candidate under the BCB category has secured 64 marks. The petitioner is successful in both the categories. However keeping in view that he belongs to BCB category, the change in his category should be made.

Notice of motion.

*Mr. Kiran Pal Singh, Assistant Advocate General, Haryana
accepts notice on behalf of the official respondents.*

List on 13.05.2019.

In the meantime, respondents can verify the certificate of the petitioner dated 25.09.2017 (Annexure P-1) which shows that he belongs to BCB category and after verification, he will be appointed under the BCB category before the next date of hearing.”

3. In the return, following stand has been taken in Para-6 of the short reply dated 17.12.2020 filed on behalf of respondent No.2:

“6. That now the petitioner knows that the verification of documents, antecedents and other particulars is to be done by the concerned Department and that department won't allow the petitioner joining as there is mismatch of category mentioned in application form and category mentioned in supporting documents of the petitioner. Therefore, the petitioner after declaration of final result, on dated 28.01.2019 filed the representation with request to change the category and thereafter filed the present writ petition before the Hon'ble High Court to take the undue benefit. The candidates category was quite visible in the application form, downloaded admit cards, signature sheet of written exam etc. At all those instances stages, the petitioner has never objected to category and now when the petitioner anticipated the risk then he has filed the present writ petition which is not maintainable as the same shows the malafide intention of the petitioner.

7. That the Hon'ble Court vide order dated 20.02.2019 directed as follow:-

“In the meantime, respondents can verify the certificate of the petitioner dated 25.09.2017 (Annexure P-1) which shows that he belongs to BCB category and after verification, he will be appointed under the BCB category before the next date of hearing.”

In this regard it is submitted that vide order dated 20.02.2019 the Court has almost allowed the writ petition of the petitioner which is not maintainable as per the grounds taken by answering respondent in the above mentioned paras of reply. Further, if the present case of change of category is allowed by the Hon'ble Court then it would be injustice to all the petitioners whose writ petitions got dismissed on the above mentioned judgments that category once opted cannot be changed later on at any stage. Therefore, the Hon'ble Court is also requested to modify the order dated 20.02.2019 and dismissed present petition in the interest of justice.”

4. On a Court query, learned State counsel submits that appropriate orders are yet to be passed. One wonders, despite such an inordinate delay,

what is the plausible explanation. Ordinarily this Court would have taken adverse inference on that ground alone and allowed the writ petition. However, taking a lenient view, this writ petition is disposed of with a direction to the respondents that appropriate orders be passed within a period of 30 days from today. In case any favorable order is passed, benefit thereof be conferred within a period of 30 days thereof.

5. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 21, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No