

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

**LPA No. 349 of 2022 (O&M)  
Date of Decision: 05.05.2022**

**Amarjeet**

**.....Appellant**

**Versus**

**State of Haryana and another**

**.....Respondents**

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE  
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

**Present : Mr. Sunny K. Singla, Advocate,  
for the appellant.**

**ARUN PALLI, J.**

This is an intra court appeal, under Clause X of the Letters Patent, against an order and judgment dated 29.03.2022, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

In brief, the case set out by the appellant has been that vide advertisement No.5/2019, dated 20.06.2019, the Haryana Staff Selection Commission, ('the Commission') had advertised 4858 posts of Clerks, including 348 posts that were reserved for General-ESM category. The appellant competed for selection in the ESM category, being a dependent of an Ex-serviceman. He also belonged to an Economically Weaker Section (EWS), and a certificate dated 14.05.2019, in this regard, was issued to him by Naib Tehsildar, Bondkalan. The appellant appeared in the written examination that was held on 21.09.2019. But, while downloading the admit card to appear in

the written examination, he came to know that his candidature was not being considered under General-ESM category, even though he possessed the eligibility certificate. Accordingly, vide representation, dated 20.09.2019, he alleged to have informed the Commission that his candidature and claim for appointment be considered under the said category (General-ESM). Vide public notice dated 18.12.2019, the Commission declared the results for written examination, and the candidates who were within the zone of selection, as per the schedule published by the Commission, were called for scrutiny of documents from 07.01.2020 to 20.01.2020. But, as the representation submitted by the appellant was not responded to, he was constrained to approach this Court, vide a writ petition, referred to above, and prayed for a mandamus, commanding the respondents to consider his claim under General-ESM category.

The Commission, in its written statement, refuted the claim of the appellant and clarified that, in fact, he had applied under the EWS category. Further, the roll number assigned to the appellant was not mentioned in the results declared on 18.12.2019, for he had obtained 53 marks in the written examination, whereas, the last shortlisted candidate for scrutiny of documents, under EWS category, had secured 63. Resultantly, the appellant was not called for scrutiny of documents. It was stated that the appellant had wrongly pleaded in the petition that he had applied for selection under the reserved category, i.e. 'General-ESM', whereas, his application form revealed that he had actually applied under EWS category. Therefore, the Commission could not permit the change in category, as that would be against the terms and conditions set out in

the advertisement.

In the wake of the stand set out by the Commission, which was not denied by the appellant by filing any replication/counter-affidavit, the learned Single Judge dismissed the petition with liberty to the appellant to pursue his cause with the department in the category he had originally applied, for it was canvassed that certain posts in the EWS category were still lying vacant.

We have heard learned counsel for the appellant and perused the records.

An analysis of the averments set out in para 3 of the writ petition as also the representation, dated 20.09.2019 (*ibid*) shows that the case of the appellant is premised on the fact that even though he had applied as a General-ESM candidate, but his candidature was considered under EWS category. *Ex facie*, the claim of the appellant is false and misleading. A reference to the application form (P-2), submitted by the appellant, reveals that he mentioned “EWS” against the relevant column of category and against the column as regards reservation, it was mentioned as “None”. The admit card (P-7), issued to the appellant by the Commission, to appear in the written examination, also shows the category in which the appellant had applied and competed as “EWS”.

It would be apposite, at this stage, to refer to the advertisement issued by the Commission, and the instructions issued to the candidates under the head 'Important Note':-

**Important Note:**

***“1. Candidates are advised to fill their application form***

*carefully such as Name, Father's/Mother's name, Date of Birth and Category, Qualification, marks, obtained passing year, photo, Signature, details & fee, etc. No request for change of any particular on the online application form shall be entertained by the Haryana Staff Selection Commission after submission of application form.*

*2. After final submission of application form, no change will be allowed. Candidate will be responsible for any mistake in the data of application form and fees paid by him/her.*

*3. In case candidate feels that he/she has filled up the form erroneously, he/she should fill up a fresh online application form alongwith fresh requisite fee before closing date.*

A bare analysis of clause 1 (*ibid*) shows that candidates were advised well in time that no request for change in the name, father's/mother's name, date of birth and category, qualification, marks obtained, passing year, photo, signature, details, fee etc., in the online application form, would be entertained by the Commission. And, if a candidate feels that he or she has erroneously filled the form, a fresh online application form could be submitted, along with fresh requisite fee, but before the closing date, which concededly, was 8<sup>th</sup> July, 2019. Further, the Commission, in its written statement, had referred to the duly signed declaration, mentioned in the application form, submitted by the appellant, which reads as under:-

*“1. I have not submitted any other application form for this recruitment. I know that if I violate this rule, my application form may be cancelled by the Staff Selection Commission.*

*2. I have read all the conditions given in the advertisement carefully and accordingly, I am eligible for this post and I*

*undertake to comply the conditions.*

*3. I also declare that I fulfil all the conditions in respect of prescribed age limit, academic qualification and eligibility.*

*4. I also declare that I have not been prevented from appearing in any exam/interview by any agency/Selection Committee of Haryana State and I have not been found guilty by any court of law.*

*5. For candidates of other backward class-I declare that I belong to that community which is treated backward class for the purpose of reservation in the services by the order passed by State Government. It is also declared that I do not belong to person/classes (creamy-layer) mentioned by the State Government under various amendments which is mentioned in the notice. I also declare that I have certificate of belonging to other backward class.*

*6. For Ex-Serviceman I declare that I fulfil all the conditions relating to Ex-Serviceman as per advertisement.*

*7. I hereby declare that all the details given in this application are true, complete and correct according to best of my knowledge and belief. I understand that no information has been concealed/fake and if anything is found concealed or false then my candidature/appointment can be concealed.*

*8. I also declare that I have applied only against one reserved category under the reservation policy issued by Haryana Govt.*

*Sd/-  
(Signature of candidate with date)”*

Thus, the appellant was bound by the declaration and undertaking he had submitted, and therefore, was not entitled to seek a change in category, in violation of the terms and conditions of the advertisement. We are reminded to point out that this was not a case where the appellant prayed that, as owing to

an inadvertent/bonafide error, he applied under the EWS category, whereas, he intended to compete as a General-ESM candidate. Rather, the positive case set out by the appellant, as indicated above, has been that he had actually applied as a General-ESM category candidate, and the Commission was at fault to consider his claim under the EWS category. Concededly, the appellant had obtained 53 marks in the written examination, whereas, the last shortlisted candidate in the EWS category secured 63. Resultantly, he was not called for scrutiny of documents. Even otherwise, the prayer that is sought to be advanced by the appellant cannot be countenanced, as it would have multiple ramifications. Needless to assert that there would be many other candidates, who having applied and competed in a particular category, would subsequently want their candidature to be considered in another category. Further, whether the appellant had actually secured more marks than the last selected candidate even in the General-ESM category, is yet another question. And, even if it is assumed that the appellant had obtained more marks than the last selected candidate (General-ESM category), but no such candidate is either named or arrayed as party. The selections have already been carried out and the process is complete. Thus, at this stage, alteration of any kind would lead to serious complications.

The reliance placed by the learned counsel for the appellant upon a decision rendered by a Division Bench of this Court in **Usha Dhillon Versus State of Haryana and others, 2015 (2) PLR 412**, is also misplaced. Undoubtedly, in the said case, the Commission was directed to consider the claim of the petitioner under the Ex-servicemen category, even though the

online application form submitted by her showed that she had applied as Special Backward Class candidate. But, she had moved the Commission to rectify the mistake, vide an application dated 01.10.2014, whereas, the last date for submission of online application form was 18.10.2014. Thus, the Court was of the view that once the candidate had clarified on 01.10.2014, that it was owing to a technical glitch in the system, the category under which she had applied was mentioned as Special Backward Class, whereas, she actually intended to compete being a dependent of an Ex-serviceman, and the last date to submit the application form was still more than 2 weeks away, the candidate could not be denied consideration under the Ex-servicemen category.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)  
CHIEF JUSTICE

(ARUN PALLI)  
JUDGE

05.05.2022  
AK Sharma

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |