

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10008-2022

Date of Decision: 13.05.2022

MANJEET TANWAR

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arun Gosain, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

Petitioner has filed this writ petition seeking quashing of final result-cum-Selection list dated 20.04.2022 (Annexure P-9) for the post of Employability Skill Instructor issued pursuant to advertisement no.12/2019, Category no.7, being illegal and unlawful on the ground that petitioner who was eligible having secured 56 marks against the marks of 46 secured by the last selected candidate in the Economically Weaker Section (EWS category) is not reflected as a selected.

Brief facts as stated in the writ petition are that petitioner being eligible for the post of Employability Skill Instructor, applied for the same pursuant to advertisement no.12/2019 issued by the Department of Skill Development and Industrial Training, Haryana. It is stated that 114 posts were advertised for Skill Instructor. Petitioner's application form is attached with the writ petition as Annexure P-3. He was issued an Admit Card, Annexure P-4. Petitioner is stated to have taken the written examination on 20.02.2020, which was held online. Result thereof, it is stated, was

published on 08.02.2022, Annexure P-5, with petitioner's roll number reflected in the short-listed candidates.

It is submitted that public notice dated 25.02.2022, Annexure P-6, was issued wherein an opportunity was afforded to the candidates to edit or correct their uploaded information. Therefore, petitioner though having earlier applied under the General Category, claimed reservation under the EWS category being fully eligible thereunder. It is stated that he also uploaded the required certificate along with the corrected Application Form.

Learned counsel for the petitioner submits that corrected Application Form submitted by petitioner in response to public notice dated 25.02.2022 was accepted and petitioner was reflected as 'eligible' under the EWS category against his roll number having secured 56 marks as per the documents, scrutiny status published by respondent no.3. Grievance set forth by petitioner is that despite being considered an eligible candidate under the EWS category, his candidature has not been considered under said category for which 11 posts were reserved. It is contended that last selected candidate in the EWS category has secured 46 marks whereas petitioner having secured 56 marks is not reflected to be selected. It is vehemently argued that once having accepted petitioner to be eligible under the EWS category, petitioner is entitled for appointment keeping in view the marks scored by him. It is thus prayed that this petition be allowed and final result-cum-selection list dated 20.04.2022 be quashed and respondents be directed to declare the petitioner qualified for the post of Employability Skill Instructor.

I have heard learned counsel for the petitioner and have gone through the file.

It is a matter of record that petitioner applied for the post of Employability Skill Instructor under the General Category. This is clearly reflected in his Application Form as well as Admit Card and is so admitted by petitioner. Petitioner has admittedly taken the written examination also as a General Category candidate. Reliance has been placed on notice dated 25.02.2022, Annexure P-6, to submit that petitioner was entitled to change his category. A perusal of said notice reveals that respondents have merely provided an opportunity to the candidates to edit or correct their information/data in the Scrutiny form filled online and upload all original documents, photo, signature, downloaded Application Form. There is no indication therein that candidates are permitted to change their category as indicated in their application form. Notice dated 25.02.2022 reads as under:-

“In continuation of this office notices dated 07.02.2022 and 08.02.2022, it is notified for the information of all concerned candidates shortlisted for scrutiny of documents for the posts mentioned in the notices referred above, the Commission has decided that the candidates who had applied earlier may now edit/correct their information/data in Scrutiny form filled up online and upload all original documents, photo, signature, downloaded Application Form and submit the same online by using the same link used for filling scrutiny form from 26.02.2022 to 28.02.2022.”

Thus it is apparent that abovesaid notice does not entitle the candidates to change their category as originally indicated by them in their application forms. Moreover, it is a settled position of law that it is not permissible for a candidate to change his category mid-way. Petitioner is not entitled to change his category after having taken the written

examination in the manner suggested while placing reliance on a subsequently issued EWS certificate dated 13.01.2021, Annexure P-2. Gainful reference in this regard can be made to judgment of the Hon'ble Supreme Court in *J&K Public Service Commission Vs. Israr Ahmad and others, 2005(12) SCC 498*.

It is relevant to note at this stage that though a bare perusal of the document attached as Annexure P-8 i.e. the document regarding scrutiny status, does not reveal the petitioner to be treated as an eligible candidate under the EWS category, learned counsel for the petitioner had vehemently asserted on the last date of hearing that petitioner has in fact been considered to be eligible under the EWS category. In view thereof learned counsel for the respondents, on advance notice, was asked to seek instructions regarding this aspect. Learned counsel for the State on instructions from Mr. Ramnish, ADA, HSSC categorically states that petitioner has never been considered as an eligible candidate under the EWS category. Change of category in this manner is not permissible. Learned counsel for the State affirms that notice dated 25.02.2022 was issued only in respect to correction or editing or correcting the information or data in the scrutiny form filled up by online candidates and for uploading of all original documents, photo, signature, downloaded Application Form, as is mentioned in the said notice and it does not entitle the candidate for change of category. Learned counsel for the State further submits that no change of category has been permitted for any candidate in this manner.

It is a matter of record that petitioner has not secured the requisite marks for being selected in the General Category. Keeping in view the facts and circumstances, no ground for interference is made out.

No other argument has been addressed.

Therefore, this writ petition being devoid of any merit is dismissed with no order as to costs.

13.05.2022
Sunil

(LISA GILL)
JUDGE

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