

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

LPA No.380 of 2022 (O&M)

Date of Decision :12.05.2022

Suman Khatri

.....Appellant

Versus

Haryana Public Service Commission and others

..... Respondents

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

Present : Mr.Sajjan Singh, Advocate for the appellant.

Mr. Deepak Balyan, Addl.A.G. Haryana.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral):

This appeal has been filed by the appellant being aggrieved by an order and judgment dated 31.03.2022, passed by the learned Single Judge in CWP No.31 of 2020, whereby the writ petition against the rejection of her candidature for appointment to the post of Assistant Professor (Political Science), under the PH(OH) category, has since been dismissed.

Learned counsel for the appellant submits that pursuant to an advertisement dated 08.03.2019, issued by the Haryana Public Service Commission, the appellant competed for selection to the post of Assistant Professor (Political Science), in the general category. Accordingly, she was issued an admit card (the general category) by the authorities. Upon which, she immediately, vide an application dated 01.10.2019, represented to the Commission that it was owing to an inadvertent mistake she mentioned her category as general in the application form, so being a physically

handicapped her category be changed to PH(OH). Whereafter she appeared in the written examination held on 03.10.2019, and secured 62 marks, which were above the candidate(s) who was/were selected under the PH(OH) category. But despite that she was not called for interview/viva voce as her name did not find mention in the announcement chart notified for interview by the Commission on 26.12.2019. Whereafter, she again represented to the Commission on 27.12.2019 (Annexure P-9), but her claim was rejected, vide impugned order dated 30.12.2019 (Annexure P-10).

It is submitted that the learned Single Judge has failed to take this aspect into consideration as well as the decision of Division Bench, rendered in the case of **Usha Dhillon Vs. State of Haryana and others**, passed in 2015(2) PLR 412, and, therefore, the impugned order deserves to be set aside, for, it suffers from material illegality and infirmity. Learned counsel for the appellant further submits that the learned Single Judge also failed to consider another judgment of Single Bench, passed in **CWP No.31185 of 2018 (Robina Vs. State of Haryana and others)**, decided on 20.05.2019.

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

From a perusal of the advertisement, issued by the authorities, pursuant to which, the appellant applied for appointment to the post of Assistant Professor (Political Science), clause 1(d&e) and note appended thereto are material and decisive to decide this appeal. For, it envisage that a candidate must make sure about the category in which he/she applies and no change in this regard would be permitted. Further, in case, a candidate

applies under the physically handicapped category then he/she is also required to specify whether the physically handicapped candidate belongs to the general/SC/BC-A/BC-B category. The relevant clauses are as under:-

“(d) No request regarding any change in any entry i.e. Name, DOB, Educational Qualifications, Experience, Category etc. In the online application form will be entertained by the Commission. So the candidates are advised to read the instructions carefully before applying online. Incomplete application form and application without fee will be rejected straight way and no correspondence will be entertained in the regard by the Commission.

(e) The online application can be filled up to 15.04.2019 at 05:00 PM by using Commission’s website after which the link will be disabled. The candidates are strictly advised to apply online in time without waiting for last date of submission of online application. No offline application form will be accepted by the office. Eligibility with regards qualifications, any certificate and other conditions of eligibility etc. will be determined as on last date of submission of online application forms i.e. 15.04.2019 (Closing date).

Note:

- 1. The Service Rules of this post are available at website WWW.highereduhry.com.**
- 2. In case of any clarification, office of HPSC may be contacted.**
- 3. The candidates belonging to the category of PH(PwD i.e. Person with Disabilities) will enclose necessary certificates with their application form from a Competent Authority in support of their claim of Disability. All such certificates should clearly mention the type of disabilities as**

defined in the Govt. Letter dated 25.04.2018.

4. The candidates claiming benefit/reservation under ESM/ESP i.e. Eligible Sports Person/PH (PwD i.e. Person with Disabilities) category of Haryana are directed to also fill their respective category i.e. General/SC/BC-'A'/BC-'B' to which they belong”.

In the present case, it is an undisputed fact that the appellant applied in the general category, and not as a physically handicapped candidate. It is not disputed either that the appellant while filling up the application form mentioned 'No' in column No.24 of the form which relates to Physically Handicapped Category. Further, in the said form she did not mention if she was/is a physically handicapped general category candidate, but simply stated that she applied as a general category candidate. Evidently, she did not comply with the requirements, in terms of, clause 1 of the advertisement. Not only that, in terms of, clause 1(b&e) of the advertisement, eligibility, category and qualification has to be determined on the last basis of date of submission of the application form which, in the present case, was 15.04.2019. The record shows for, the appellant applied in the general category, she was issued an admit card by the authorities to appear in the examination under general category. However, while appearing in the examination she clearly mentioned PH(OH) in the OMR sheet and it was on account of this fact that the result of the appellant was declared under the PH(OH) category on 12.12.2019. However, on scrutiny of documents, it was found that she had in fact applied in the general category and, therefore, her candidature was considered under the general category and was rejected as persons more meritorious than her were

available in that category. Learned Single Judge has recorded a finding and we are also in respectful agreement therewith that no representation dated 01.10.2019, was ever submitted by her, as is sought to be alleged in the petition. There is no acknowledgment in this regard and the same has categorically been denied by the respondents-authorities. It is, significant to note, in case, there was any confusion under clause 1 and note (ii) of the advertisement, she was free to obtain any clarification from the office of the Haryana Public Service Commission, before filling up the application form as provided in the advertisement. Admittedly, she had not done so. In such circumstances, the respondents-authorities have rejected her claim.

Learned counsel for the appellant submits that in similar case, the Division Bench of this Court in **Usha Dhillon (supra)** had permitted the petitioner to change her category. Having examined the said decision, we are of the considered opinion that reliance placed thereon by learned counsel for the appellant is wholly misplaced. The claim of the petitioner in the said case was considered in isolation of Clause 1 (d) and (e) and Note that have been referred to by us in the preceding paragraph. Further, in that case even before the last date of filing the application form, the candidate had sought correction in the application form. But that is not the position in the present case. As, no such clarification was sought or made by the appellant prior to the last date of filling up of the application form.

We have also taken into consideration this fact that the learned Single Judge has dismissed the case of the appellant by placing reliance upon the decision of the Supreme Court, rendered in the case of **J & K Public Service Commission Vs. Israr Ahmad and others, 2005(1) SCC**

498, wherein the Supreme Court has held that the candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make a fresh claim.

In the wake of the above, we do not find any illegality or infirmity in the order passed by the learned Single Judge.

The appeal being devoid of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

12.05.2022
Manoj Bhutani

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