

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

CWP-10660-2021

Date of Decision: 01.09.2022

Joginder Singh

...Petitioner

Versus

Haryana Staff Selection Commission and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Raj Kapoor Malik, Advocate
for the petitioner.

Mr. R.K.S. Brar, Addl. A.G., Haryana.

ARUN MONGA, J. (Oral)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to issue appointment letter to the petitioner for the post of Station Supervisor, Transport Department, Haryana in BC-B category.

2. Succinct facts first, as pleaded. Haryana Staff Selection Commission advertised 38 posts of Station Supervisor in which three vacancies were given under the head of BC-B category. Having participated in the selection process, petitioner secured 131 marks and name of the petitioner finds at Serial No.1 in the waiting list of BC-B category.

3. Learned counsel for the petitioner submits that only two candidates were selected from the BC-B category and one candidate i.e. respondent No.4 was from the Physically Handicapped (Orthopedics) in BC-B category. He contends that, in fact, no post was shown under the head of PH(OH) in BC-B category at the time of advertisement. No corrigendum

regarding the addition or deletion of number of posts under the BC-B category was issued either.

4. On the other hand, learned counsel for the respondent-State submits that petitioner has scored an aggregate of 137 marks (124 in written examination + 13 in interview), whereas, the last selected candidate in the main selection list has scored 142 marks in the category in which petitioner had applied. Due to lesser marks, the Respondent Commission has thus rightly placed the petitioner in the waiting list.

5. I have heard learned counsel for the parties and gone through the case file.

6. I find that the contention of learned counsel for the petitioner, that the number of vacancies against the persons suffering from disability ought to have been declared at the time of advertisement, and owing to failure thereof, respondent-Commission could not have filled up the posts in the category of BC-B physically handicapped in orthopedic category, is unacceptable. Reason is not far to seek. The said requirement on the part of the respondents is for the benefit of the persons who suffer from any disability, so as to get a fair opportunity for being considered at the time of appointment. Indeed, the lapse on the part of the respondents, *prima facie*, borne out from the advertisement itself ought not to result in an undue advantage to the petitioner, who is most certainly not claiming the post in physically handicapped category.

7. As regards his performance, concededly, he has scored 137 marks, concededly way below the last selected candidate in BC-B category who has scored 142 marks. That apart, qua the reservation meant for physically handicapped persons, respondents are under legal mandate as per the

provisions of '*Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*' to provide horizontal reservation, within the respective verticals, for the persons with disabilities/special abilities. Thus, even otherwise, in this regard, having gone through the stand taken in the return, I do not find any irregularity to warrant any interference. Furthermore, contents of counter affidavit have not even been controverted.

8. No ground to interfere is made out.

9. Dismissed.

01.09.2022

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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable : Yes No