

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

**Review Application No.RA-CR-45 of 2022
in
COCP No.2038 of 2021
Date of Decision: May 31, 2022**

Suresh Kumar

...Applicant-Petitioner

Versus

Baldev Raj Mahajan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Sandeep Goyat, Advocate for
the applicant – petitioner.

Mr.Saurabh Girdhar, AAG, Haryana.

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HARINDER SINGH SIDHU, J.

By filing this application, the applicant – petitioner has sought review of the order dated 13.05.2022 passed by this Court in COCP No.2038 of 2021.

The primary ground for seeking review of the order dated 13.05.2022 is that while passing the order the court has over-looked the fact that the applicant-petitioner has already mentioned in paragraph 13 of the petition that candidates of EBPGC category (*Economically Backward Persons in General Castes Category*) for the post of Shift Attendants had been given appointments on the basis of the opinions tendered by respondents No.1 and 2. Therefore, the finding/observation in the order under review that the petitioner has not given any particulars of any

appointment alleged to have been made in violation of any interim order or undertaking given in Court is incorrect.

It is further stated that while passing the order, it has not been noticed that on the date of hearing i.e. 02.11.2021 at 6.46 AM the petitioner had sent documents on the official Email ID of the Court i.e. courtroom37@gmail.com regarding declaration of final result on 11.11.2020 for the post of Lower Division Clerk against Category No.07 in Advt.No.03/2016 and the final result dated 13.11.2020 for the post of Lower Division Clerk against Category No.3 in Advt. No.03/2016, under EBPGC category. Copies of the same have been annexed with the application as Annexures A-6 and A-7. The Email report has been annexed as Annexure A-8. It is further stated that as per letter dated 26.10.2020, which has been annexed as Annexure A-9 with this application, the SE (OP)Circle, UHBVN Panipat was requested *“to issue offer of appointment to below mentioned candidates and subsequently appointment letters to suitable candidates for the post of Shift Attendant against Advt.No.3/2016 Category No.01.”* It is stated that earlier the joining of these EBPGC category candidates was withheld due to the status quo of the Hon'ble Court, but the process of issuing appointment letters to these 24 candidates under EBPGC candidates was initiated after the legal opinions dated 06.08.2020 (P-8) and 13.10.2020 (P-9) were received.

Having heard Ld. counsel for the applicant, no ground is made out to entertain the present Review Application.

In the order dated 13.05.2022, it has been specifically noted that

it has been alleged in the petition that “*despite various interim orders passed by this Court as also the undertaking given on 16.05.2019 by the Advocate General, Haryana, particularly, after withdrawal of Notification dated 27.09.2013 the UHBVNL/HVPNL/ DHBVNL and various other Departments had given appointments to the EBPB category candidates for the post of Shift Attendant and also to the candidates selected through various other Advertisements. They were thus guilty of having committed contempt of Court. This had been done under the shelter of legal opinion tendered by respondent Nos.1 & 2.*”

It has further been recorded that at the time of arguments this ground was not pressed by the Ld. Counsel as no particulars of any appointment alleged to have been made in violation of any interim order or undertaking had been furnished in the petition and that he had only argued that legal opinions (P.8, P.9 and P.10) tendered by respondent Nos.1 & 2 are in violation of the orders passed by this Court as also the undertaking dated 16.05.2019 of the learned Advocate General, Haryana

The relevant part of the order is reproduced below:

“At the time of arguments, Ld. Counsel did not press this ground as no particulars of any appointment allegedly made in violation of any interim order or undertaking had been given in the petition.

He only argued that the legal opinions (P.8, P.9 and P.10) tendered by respondent Nos.1 & 2 are in violation of the orders passed by this Court as also the undertaking dated 16.05.2019 of the learned Advocate General, Haryana before this Court. Respondents No.1 and 2 are thereby guilty of contempt. Respondent No.2 has authored the opinions which

have been endorsed and countersigned by respondent No.1.”

Ld. counsel for the applicant has not disputed this.

In view of the fact that Ld. Counsel had limited his argument to the contention that the legal opinions (P.8, P.9 and P.10) tendered by respondent Nos.1 & 2 are in violation of the orders passed by this Court as also the undertaking dated 16.05.2019 of the learned Advocate General, Haryana , it is not open to him to seek a review of the order by contending that facts stated in the petition indicating that appointments had been made, have been overlooked.

Even otherwise neither in paragraph 13 of the petition, nor in Annexures A-6 and A-7 (which were E-mailed on 02.11.2021) and Annexure A-9 (annexed for the first time with this application) is there anything to indicate that any appointment has been made in the EPBGC category as is being contended.

Para 13 of the petition reads:

“13. That despite various interim orders passed by Hon'ble High Court and even undertaking dated 16.05.2019 (P-6) made by Ld. Advocate General, Haryana before Hon'ble High Court and also after withdrawal of the impugned notification dated 27.09.2013 vide Instructions dated 05.06.2019 (P-7), still the UHBVNL/ HVPNL/ DHBVNL and various other Departments, under the shelter of opinion rendered by respondents No.1 and 2, have given appointments to the EBPG category candidates selected vide Advt. No.3/2016 category No.1 for the post of Shift Attendant and also to the candidates selected through other various advertisements, which is totally illegal and unjustified and intentionally creating third party rights and

complications to defeat the rights of the petitioners.”

Undeniably, in this paragraph there is no specific mention of any candidate of the EPBGC category having been given appointment.

Annexure A-6 and A-7 are only declarations of results for the post of Lower Division Clerks. Nothing is placed on record that the successful candidates in the EPBGC category were appointed.

Even vide document Annexure P-9, (placed on record for the first time with this application), the SE (OP)Circle, UHBVN Panipat was requested to issue offer of appointment and subsequently appointment letters to 24 candidates who had been selected for the post of Shift Attendants under the EBPGC category. It is not the case of the applicant that any appointments subsequent to the said communication were made.

Thus there is no merit in this application and the same is dismissed.

May 31, 2022

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No