

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

CWP-10441-2017

Date of Decision: 03.03.2022

ANAND SINGH KODAN

..... Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Mr. Harish Nain, AAG, Haryana.

Mr. Kanwal Goyal, Advocate
for respondent no.2.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Grievance of the petitioner, who had applied for the post of Assistant Professor in Commerce pursuant to advertisement No.7 dated 24.01.2014 (Annexure P-3), is that he was not considered under the Physically Handicapped (Ortho) category but was considered in General category

The submissions on behalf of the petitioner were recorded in the order issuing notice of motion, which reads as under:-

“At the very outset, the learned counsel states that reference to CWP No.2129 of 2017 given in the Index has been inadvertently made and that case has nothing to do with the present petition.

By this petition the petitioner is challenging the action of the respondents in considering him under General Category for the post of Assistant Professor in Commerce.

Brief facts of the case are that originally the respondent No.2-Haryana Public Service Commission had advertized many posts of Assistant Professor (College Cadre), HES-II in various subjects including 112 posts in the subject of Commerce in the Higher Education Department. In that advertisement 6 posts were reserved for Physically Handicapped (PH) Category (unreserved) out of which 2 posts were meant for Physically Handicapped (Ortho). However, that advertisement was withdrawn and a fresh advertisement was issued. In that advertisement total number of posts were increased but number of posts reserved for Physically Handicapped were decreased in many subjects. As a matter of fact, no post was reserved for PH (Ortho) (unreserved) in the subject of Commerce. Faced with this situation the petitioner applied under the General Category (by application Annexure P-6). Thereafter, Corrigendum (Annexure P-7) was issued whereby certain changes were made in the number of posts and revised classification was made. On this occasion 7 posts were reserved for PH (Ortho) in the subject of Commerce. That corrigendum (Annexure P-7) mentioned the two following conditions:-

“(ii) The candidates who wish to apply now against the new classification of posts can apply through online mode upto 10.05.2016 i.e. closing date [13.05.2016-closing date for depositing fees in the banks].

(iii) The candidates who had applied earlier are at liberty to make any change regarding their category and qualification etc. in their previous online application form upto 10.05.2016.”

Thereafter, the petitioner is stated to have applied afresh by application dated 30.04.2016 (Annexure P-8) in which he mentioned that he was a General Category Physically Handicapped candidate and his subcategory under Physical Handicap was Ortho. However, when the roll number was issued it showed his category as General. Since there was very little time between the issuance of roll number and the examination, the petitioner took the examination. His grievance is that he has been considered in the General Category.

In my opinion, if this is so, it has to amount to an infraction of his rights. No doubt it may be said that the petitioner could have immediately represented when the roll number was issued to him in the wrong category and he could have also made a representation even immediately after taking the exam. However, the learned counsel has tried to explain the same by saying that since the petitioner was actually from the General Category, he thought that the category mentioned in the roll number referred to his main category of General as in other cases like Scheduled Castes, Scheduled Tribes and Backward Class. I find that though the petitioner could have represented earlier, yet in case he had made a fresh application pursuant to the corrigendum in which he had correctly shown himself as a person belonged to General Physically Handicap (Ortho) category, the action of the Commission in treating him as a General Category candidate may not be correct.

Notice of motion.

Adjourned to 29.11.2017.

In the meantime, in case the petitioner makes the cut in the General Physically Handicap (Ortho) Category, he shall be provisionally considered for the interview.”

The petitioner was thereafter interviewed provisionally in compliance of the said order. Result of the petitioner has been produced in sealed cover before this Court today. The result reads as under:-

Sr. No.	Roll No	Category	Candidates Name	Recruitment Test Marks out of 100 (Calculated on percentile basis)	50% of Marks obtained in Recruitment Test (Total Marks 50)	Marks Awarded Personal Achievement & interview (Total Marks 50)	Total (2x3)
		Columns		-1-	-2-	-3-	-4-
1.	1253	Gen PH Ortho	Anand Singh	52.63	26.32	20	46.32

Learned counsel for the respondents informs that the last selected candidate in the Physically Handicapped (Ortho) category has secured 53.95 marks whereas the petitioner has secured 46.32 marks, therefore, this writ petition, in any case, is rendered infructuous.

Learned counsel for the petitioner is unable to deny the same.

Accordingly without expressing any opinion on the merits of the matter, writ petition is disposed of as infructuous in view of the result produced in Court. The result is handed back to the official present.

(Lisa Gill)
Judge

03.03.2022

Sunil

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