

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

Sr. No.299

CWP No.16227 of 2020

Date of Decision: 26.07.2022

Jagmender Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amardeep Hooda, Advocate for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

Learned counsel for the petitioner argues that according to him, the minimum required marks in the category in which the petitioner is competing is 40% whereas the petitioner has secured more than 40% marks but still he has not been called for the interview, which grievance has been raised by the petitioner in the present petition. During the pendency of the petition, the petitioner was allowed provisional interview, which has already been conducted.

In the reply filed, the respondents have stated that keeping in view the terms and conditions of the advertisement, it was made clear that in case, any dependent of Freedom Fighter is claiming appointment, the minimum marks required will be the same as has to be applied keeping in view whether a candidate belongs to general category or reserved category and the cut off for general/reserved category, as the case may be, will be applicable upon the said candidate and as the petitioner is claiming appointment as dependent of Freedom Fighter and belongs to the general

category, the cut off prescribed for the petitioner to be eligible for consideration for appointment is 50%.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present petition, the petitioner is claiming consideration under the category of dependent of Freedom Fighter. As per the terms and conditions of the advertisement, the dependent of Freedom Fighter can only be considered in case, any post which is reserved for Ex-Serviceman or the dependent of Ex-Serviceman, remains vacant. Further, the same advertisement prescribes that the requirement of pass percentage to be called for interview remains the same for such candidates, for example, in case the dependent of the Ex-Serviceman belongs to general category, he/she has to secure minimum of 50% marks and if the dependent of Freedom Fighter belonging to reserved category, he/she has to obtain the requisite minimum marks as prescribed for the said reserved category.

That being so, the petitioner claiming the appointment under the category of dependent of Freedom Fighter and belonging to the general category, was required to obtain minimum 50% marks to become eligible for consideration for appointment. Concededly, the petitioner does not have the said minimum percentage in the written examination.

The argument of learned counsel for the petitioner that once the posts which have been offered to the petitioner, are the vacant posts of Ex-Servicemen category, the eligibility criteria for the Ex-Servicemen should be made applicable, can not be accepted for two reasons. Firstly, once the terms and conditions of the advertisement specified a particular

condition, unless there is a challenge to the same, no relief can be granted. Secondly, the petitioner does not belong to the category of Ex-Serviceman. Though, the petitioner's candidature is to be considered in case, the posts in the category of Ex-Serviceman remain vacant, but because initially the post was meant for the Ex-Serviceman, will not give a right to the petitioner to have the same kind of eligibility, especially when the petitioner does not belong to the category of Ex-Serviceman.

Keeping in view the above, no fault can be found with regard to the action of the respondents in not calling of the petitioner for interview as the petitioner has less than 50% marks in the written examination.

No ground is made out for interference and accordingly the present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

26.07.2022
Maninder

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