

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

CWP-15025-2017 (O&M)

Date of decision: September 15, 2022

Ajit Singh

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Shekhar Verma, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

Mr. Surender Pal, Advocate for respondent No.5.

Mr. Sunil Garg, Advocate for applicant/proposed respondent No.6.

Mr. Aftab Singh Khara, Advocate for respondent No.4 and applicant/proposed respondent No.7.

ARUN MONGA, J. (ORAL)

CM-8059-CWP-2019

For the reasons stated in the application, the same is allowed.

Applicant as mentioned in Para-7 of the application is ordered to be impleaded as party-respondent No.6 to the petition, subject to all just exceptions. Amended memo of parties is taken on record. Registry to do the needful.

CM-284-CWP-2021

For the reasons stated in the application, the same is allowed.

Applicant as mentioned in Para-8 of the application is ordered to be impleaded as party-respondent No.7 to the petition, subject to all just

exceptions. Amended memo of parties is taken on record. Registry to do the needful.

Main case (O&M)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing the response dated 06.07.2017 (Annexure P-8) whereby complaint/representation of the petitioner requesting to comply with the terms and conditions of the Advertisement dated 01.12.2015, was disposed of.

2. Pledged case is that petitioner applied for the post of Junior Coach Cycling under General Category as per Advertisement No.11 of 2015 dated 01.12.2015 (Annexure P-1). After written examination, five candidates in the merit list of General Category were called for interview. Respondent No.4 employed with the Indian Army and respondent No.5 employed with Indian Air Force could not produce their 'No Objection Certificate' from their respective employers, which is mandatory condition as per terms and conditions of the advertisement in question. Still both respondents No.4 and 5 were considered to be eligible for interview. Petitioner submitted a complaint dated 16.05.2017 (Annexure P-4) pointing out aforesaid discrepancies and illegalities committed by the scrutiny staff. He also submitted a representation dated 17.05.2017 (Annexure P-5). Petitioner further submitted a complaint dated 17.05.2017 (Annexure P-6) with the Chief Minister Grievances Redress & Monitoring System, Haryana. Vide impugned response dated 06.07.2017, complaint of the petitioner was disposed of on the basis of reply given by respondent No.2, stating "Hence, NOC is not required".

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. Learned counsel for the petitioner alleges that despite being in defense service, at the relevant time, respondents No.4 and 5 had not sought prior permission from their employer by way of NOC as mandated in the advertisement. For ready reference, relevant instructions mentioned in the advertisement in question reads as below:-

“Serving Government Employees:-

Serving Government Employees have to produce no objection certificate from their Head of department at the time of verification/ scrutiny-cum-interview.”

5. In this regard, I am of the view that said permission is required only if a serving defense official is seeking benefit of Ex-Serviceman category. The intent of NOC is that without prior permission of the employer, a serving defense official, who is slated to retire, should be able to seek the benefit of Ex-Serviceman category in the event he is released/ discharged from service. It is an enabling provision to help all those the serving defense candidates who want to seek benefit of special category of Ex-Serviceman and in case, a defence official does not wish to seek that benefit and opts in the General category, it is his own wish. So does the Constitution of India envisages under Article 16.

6. It transpires that during pendency of the writ proceedings, even claim of the petitioner for the post in question has been accepted pursuant to his being declared meritorious per the result declared by the Haryana Staff Selection Commission on 01.09.2022. Learned counsel for the petitioner contends that petitioner had applied under the General category, but he has been shown in Ex-Serviceman General Category.

7. Being so, without prejudice to his rights, petitioner is at liberty to join the post in question pursuant to the aforesaid result declared by the Commission and he is also at liberty to file representation with the competent authority to look into the anomaly, if any, *qua* which he is aggrieved. The Competent authority shall look into the same and in case, claim of the petitioner is found genuine subject to his being meritorious in the General category, then his category will be shifted.

8. Disposed of, accordingly.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 15, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No