

CWP-24839-2018

Date of decision :February 17, 2022

Anju Kumari

.....Petitioner

Versus

Haryana Staff Selection Commission

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Anurag Goyal, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

LISA GILL, J.

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

Prayer in this writ petition is for quashing of notice dated 17.09.2018 (Annexure P5) calling the candidates for interview for the post of PGT (Political Science) pursuant to advertisement No. 4/2015 Category No. 13 on the ground that candidates of the reserved BC-B category having secured more marks than the last candidate in General category have not been shifted to the General category and that the cut of marks in General category are 100 whereas in BC-B category, it is 106 marks.

Learned counsel for the petitioner submits that the petitioner applied for the post of PGT (Political Science) pursuant to abovementioned advertisement being fully eligible for the said post. She was issued an admit card and asked to appear for the written examination. Petitioner took written

examination on 20.03.2016. Result thereof was declared on 22.01.2017 and

notice was given to the candidates for scrutiny of documents before interview for the post in question. It is further stated that petitioner appeared before Scrutiny Committee on the due date and on the basis of scrutiny of documents and written examination, candidates were called for interview in their respective category vide notice dated 17.09.2018. Learned counsel submits that petitioner's roll number did not figure in the said list though she had cleared the written examination. Petitioner claimed that as per her self evaluation, she secured 100 marks by rightly answering 50 questions but she was not reflected either in General category or in the reserved category of BC-B category despite the fact that cut off marks in the category of BC-B were reflected as 106 and 100 in the General category. Being aggrieved, present writ petition was filed by the petitioner.

While issuing notice of motion on 27.09.2018 in this writ petition, it was directed that petitioner be interviewed provisionally and her result be kept in a sealed cover. Result of the petitioner has been produced in sealed cover today. Same has been perused. Admittedly having secured 114 marks, petitioner has secured less marks than the last selected candidate in BC-B category, who has secured 121. Learned counsel for the petitioner, however, submits that having secured 114 marks, petitioner should be kept in the waiting list as the last selected candidate in the waiting list has secured 114 marks. However, I do not find any merit in the argument raised by learned counsel for the petitioner for the reason that the matter is squarely covered against the petitioner by a Division Bench decision dated 15.12.2021 in CWP-25407-2021. Question sought to be

agitated in this writ petition has been considered and answered by the Division Bench of this Court as under:-

“5. The principle that reserved category candidates should be moved upto the General category in the event of their getting adequate merit has to be seen at the stage of appointment or when the vacancy is consumed. At this preliminary stage, it would not be possible to shift all the BC-B category candidates, who have obtained higher cut-off marks to the General category for the simple reason that this is a premature state.

If the argument of the petitioner is accepted, it could lead to great injustice because the candidate who is shifted upto the General category on the basis of the preliminary examination and does not attain the requisite merit in the main examination and the viva voce would then be dis-entitled to claim a seat in the BC-B category. Learned counsel has relied upon the judgment of this Court in the case of **Ajit Singh Vs. State of Haryana and other, 2012(1) RSJ 433**, in which the Division Bench held as follows:-

“In view of the judgments referred to above, the following principles can be culled down:

- (i) The reservations for Physically Handicapped, Exservicemen, dependants of freedom fighters and women etc. are the horizontal reservations.
- (ii) The candidates belonging to horizontal reservations will cut across the vertical reservations in the following manner:
 - (a) Firstly the seats for Open Category candidates will be filled up on the basis of merit;
 - (b) Secondly, the seats meant for vertical reserved categories will be filled up on the basis of merit in their own quota;
 - (c) Thirdly, the seats equal to the number of the candidates belonging to horizontal reserved category and also falling within vertical reserved category, shall stands consumed in the vertical reserved category. The candidate lower in vertical reserved category will make way for him;
 - (d) Fourthly, if a candidate belonging to horizontal reserved category does not belong to any of categories of reservations, a candidate in the open category will make way for such reserved category so as to satisfy

quota of the seats meant for the horizontal reserved category.

(e) Lastly, in case of women candidates, who also fall within any one of special reservations or social reservations, such candidate shall be taken into consideration for determining the quota for both women and social reservations.”

6. It is interested to note that in this case, the stage at which the upward movement was demanded at the stage of final selection and not at the stage of the preliminary examination.”

Therefore, keeping in view the facts and circumstances as above, it is clear that petitioner had rightly not been called for interview by the official respondents. It is clear that question of shifting or moving the reserved category candidates to the General category would arise at the final stage and not earlier. Petitioner being interviewed provisionally under orders of this Court does not vest her with any right to be considered or to be kept in the waiting list either. Consequently, finding no merit, this writ petition is dismissed with no order to costs.

February 17, 2022

rts

(LISA GILL)
JUDGE

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