

227

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-25847-2018 (O&M)

Date of Decision: 22.03.2022

Lalita

...Petitioner

V/s

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Rakesh Sobti, Advocate  
for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

**ARUN MONGA, J.**

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of certiorari quashing the action of the respondents for not publishing the result showing the merit and marks of the persons selected for the post of Multipurpose Health Worker-MPHW (Female) advertized vide Advt. No.1/2015 dated 19.06.2015 in the leading newspapers and to issue the appointment letter to the petitioner if she comes within the zone of selection w.e.f. the date the other selected candidates for the same post.

2. Respondent No.2-department issued an advertisement No.1/2015 published on 19.06.2015 inviting applications for various posts including 300 posts of MPHWP(Female) Category 9. The petitioner being fully eligible and qualified as per the qualification prescribed under the Rules and as mentioned in the advertisement submitted her application. On receipt of admit card, the petitioner appeared in the written test on 22.01.2017. On the basis of written test, respondent No.2 declared the result on 09.05.2017 wherein the roll number

of the petitioner was shown in the result. However, respondent No.2 did not disclose the proper merit list with marks of the selected candidates. The petitioner in pursuance to the result appeared before the scrutiny committee on 23.05.2017 for scrutiny of her documents. After scrutiny of documents of the successful candidates, respondent No.2 issued notice dated 14.02.2018, whereby candidates equal to twice the number of vacancies had been called for interview/viva-voca. The notice further provided that the marks of the last shortlisted Economically Backward Person in General Castes category (EBPG) were 60. However, the name of the petitioner was not shown in the list of successful candidates though she was sure about her good performance. The petitioner immediately approached respondent No.2 to disclose her marks and the marks obtained by other candidates but no response had been received from them and ultimately respondent No.2 declared the final result (Annexure P-9) on 08.03.2018 of all the categories except the EPBG category against which the petitioner had applied. On 18.07.2018, respondent No.2 declared the result of the withheld category of EBPG but had not declared the result (Annexure P-13) for the post meant for EBPG-OH (Orthopedically Handicapped) i.e. 1 post, which means that no candidate was found eligible and post remained vacant. The petitioner sought information from the respondent-department and in response thereto the respondent-department replied that the details of all the candidates will be uploaded shortly on the website of the Commission. When no details of the candidates were uploaded, the petitioner sent a legal notice dated 06.08.2018 (Annexure P-14) to the respondents to supply particulars of all selected candidates for the post of MPHWH (Female) with the marks given to them under different heads alongwith their qualification and experience certificates, merit position, as well as marks given to the petitioner under

different heads in the written test and further requested the respondents to consider the claim of the petitioner for appointment.

3. On 08.10.2018, the following order was passed by this Court:-

*“Petitioner is participating in the selection process for the post of MPHWH (Female) under EBPG/PH (Loco Motor Disability) category pursuant to advertisement No.1 dated 19.06.2015. After appearing in the written examination, she has secured 90 marks. Vide notice dated 14.02.2018 (Annexure P-8), candidates were called for appearing in the interview. However, petitioners name did not reflect in the said list. Learned counsel for the petitioner states that the last candidate, who has been called for the interview under the above said category, has got 60 marks. Final result of EBPG category has been declared on 18.07.2018 (Annexure P-13). Learned counsel further states that one post under the above said category is still lying vacant.*

*Notice motion for 14.01.2019.*

*In the meantime, petitioner shall be provisionally interviewed.”*

4. On 02.12.2021, the following order was passed by this Court:-

*“Pursuant to order dated 13.10.2021, result of the petitioner has been brought in a sealed cover in the Court, which has been opened and the same is taken on record as mark ‘A’. It reveals that the petitioner has secured 88 marks (in written examination), 16 marks (for experience) and 10 marks (in interview) with an aggregate of 114 marks. The petitioner concededly applied under the EBPG Category with Sub Category of Physically Handicapped, as is borne out from her application form (Annexure P-4). Last selected candidate in the EBPG Category has secured aggregate of 96 marks with cut off in the written marks as 60.*

*In the premise prima facie it seems that the petitioner has not been given benefit of her merit and has been wrongly rejected.*

*Confronted with the situation, learned State counsel seeks short accommodation to file an affidavit.*

*Adjourned to 19.01.2022.*

*Meanwhile, one post of MPHW (Female) shall be kept reserved in EBPB Category, subject to vacancy being available as on today, till the next date of hearing.”*

5. Thereafter, reply was filed on behalf of respondent No.3 by way of affidavit of Bharat Bhushan, Under Secretary, Haryana Staff Selection Commission, Panchkula. As per the reply, the candidate claiming reservation under OH category is not required to deposit any fee. Thus, a candidate who applies under OH category did not deposit any fee and therefore the claim of the petitioner to consider her for the post which is meant for main category EBPB is not valid and it will amount to injustice to those candidates who have applied under EBPB category and have paid requisite fee. Further, it is mentioned that the petitioner had filed the present writ petition on 01.10.2018 and the petitioner claimed her candidature to be considered under EBPB category only after declaration of final result of EBPB on 18.07.2018 and not during the time of scrutiny of documents, publication of interview notice and the declaration of partial result dated 08.03.2018. Further, it is mentioned that candidate, namely, Meenakshi Bala bearing Roll No.22116814, applied under EBPB category, has secured total 102 marks and the last selected candidate in EBPB category has secured 96 marks. However, the petitioner has obtained lesser marks i.e. 88 marks and the cut off for the PH-OH category was 90 and therefore, as the petitioner was shortlisted under EBPB (OH) category, she was considered under that category.

6. Learned counsel for the petitioner argues that the action of the respondents in not publishing the result showing the merit and marks of the persons selected for the post of MPHWS (Female) in the leading newspapers is in clearly in violation of judgment of this Court dated 22.05.2014 passed in CWP No.2201 of 2014, titled as Vikas Sharma vs. State of Haryana and others (Annexure P-13-A) and judgment dated 26.05.1997 passed in CWP No.6983 of 1997, titled as Balbir Kaur and others vs. State of Punjab and others.

7. In backdrop of the aforesaid facts, a short controversy warranting adjudication before me is whether the action on the part of the respondents in not publishing the result of the participating candidates in the selection process and being non-transparent inasmuch as withholding of the entire merit list and non-disclosure of the individual marks of the selected candidates amounts to arbitrariness and thus hit by Article 14 of the Constitution of India.

8. Consequential adjudication warranted by this Court is also whether the respondents are justified in verbally rejecting the claim of the petitioner for being invited for interviews and the subsequent recruitment process without non-disclosure of her marks in the written examination and without any other plausible reasons, particularly in view of her having obtained information qua her written examination which reflects that she had secured higher marks than the last selected candidate in the category she had applied. In this context, reference may be had to an order dated 08.10.2018 (*supra*) passed by my Learned Sister Ritu Bahri, J. (then seized of the matter).

9. *Apropos* above, the petitioner was interviewed and subsequently result of the petitioner was also brought to the Court as is reflected in order dated 02.12.2021 (*supra*).

10. As per the return filed by the respondents, the prayer of the petitioner has been rejected *inter alia* on the following ground:-

*“In this regard, it is submitted that a candidate who applies under EBPG category is required to deposit fee of Rs.13/- while a candidate claiming reservation under OH category is not required to deposit any fee. The relevant part of the advertisement in which the details of fees mentioned is reproduced as under:-*

| Sr. No. | Category of Post                                 | General      |                                 | SC/BC/SBC/EBPG candidates of Haryana State only |         |
|---------|--------------------------------------------------|--------------|---------------------------------|-------------------------------------------------|---------|
|         |                                                  | Male/ Female | Female of Haryana resident only | Male                                            | Female  |
| 1.      | Cat. No.1 to 6                                   | Rs.150/-     | Rs.75/-                         | Rs.35/-                                         | Rs.18/- |
| 2.      |                                                  | Rs.100/-     | Rs.50/-                         | Rs.25/-                                         | Rs.13/- |
| 3.      | Physically Handicapped/ Ex-Serviceman of Haryana | No Charges   |                                 |                                                 |         |

*Thus, a candidate who applies under OH category did not deposit any fee and therefore his claim to consider him/her for the post which is meant for main category EBPG is not valid and it will amount to injustice to those candidates who have applied under EBPG category and have paid requisite fee. Hence, the petitioner is not entitled for any relief from the Hon’ble Court.”*

11. As regards her claim in EBPG category is concerned and her rejection qua the same has been justified in para 9 of the return as below:-

*“9. That another contention of the petitioner in the present writ petition is to quash the selection and appointment of the candidate bearing Roll No.22116814 for the post of MPHWH (Female) under EBPG category being lower in the merit than the petitioner. In this regard, it is relevant to mention here that the candidate (Meenakshi Bala) bearing Roll No.22116814 applied under EBPG category and has secured 102 marks (66*

*marks in written examination + 20 marks in interview+16 marks of experience) and the cutoff for interview in her respective category is 60 marks and the last selected candidate in EBPB category has secured 96 marks. Therefore, the candidate (Meenakshi Bala) bearing Roll No.22116814 was rightly selected for the above said post.”*

12. First and foremost contention of learned counsel for the petitioner is that the result of the candidate ought to have been published. This is not the first time that Commission has been confronted with such allegation and in this context, in earlier round of litigation, speaking for this Court my Learned Brother Augustine George Masih, J. in CWP No.2201 of 2014 and another connected case, expressed his reservations qua the conduct of Commission as below:-

*“In view of the above, in order to bring transparency and dispel doubts, if any, in the minds of the candidates who have participated in the selection, it would be proper to direct uploading of the information about the results relating to all public posts by all concerned public authorities. This would reduce litigation under the Right to Information Act, 2005 which results in wastage of time, energy and money, both of the candidates and the public authorities. This will enhance the credibility of the authorities making selection which would be in public interest. As recorded above, the HSSC and the HSTSB have already complied with the order dated 26.04.2014 passed by this Court, in view of the reasons mentioned above, a direction is issued to the HPSC to comply with the order dated 26.04.2014 in toto within a period of two weeks from today. This would apply to the selections which have been held by the HPSC results of which have been declared from March, 2014 onwards.*

*The HPSC, HSSC and HSTSB shall also ensure compliance with the provisions as contained under Section 4 of the 2005 Act which mandates the public authority to maintain records in the computerized form after the display of the result on the website. The process as indicated in the order dated 26.04.2014 in the form of submissions of Mr. Ashwani Bakshi, Advocate, be followed and complied with. The result alongwith the information as has been ordered to be displayed on the website vide order dated 26.04.2014 shall be available on the website for a period of three weeks with facility of downloading it. It is made clear that these directions shall not be specific to the selection in question in the present writ petition but would be a perpetual mandamus for the HPSC, HSSC and HSTSB for all selections to be made by these authorities in future as well.*

*In case, the petitioners still feel that there is some difficulty in the operation of the website in getting the information as has been ordered vide order dated 26.04.2014, it would be open to them to again approach the Court.”*

13. Notwithstanding, even after aforesaid unambiguous directions and observations of this Court, Commission has been audaciously continuing to conduct itself in most casual and lackadaisical manner and in complete disregard, of what it is expected to do. Ordinarily, this Court ought to have quashed the entire result but adopting equitable approach, this Court would not disturb the selection of already selected candidates as doing so would mean giving premium to those who were unsuccessful, merely because of the misconduct of the Commission and this Court refrains itself to pass any such orders.

14. Qua claim of the petitioner in OH category, it is for the first time before this Court that by way of an affidavit, it has been tried to be

justified as to why the same has been rejected. Had the petitioner been intimated by an acknowledgment slip, if at all, as is claimed that she did not pay Rs.13/- being the requisite fee, she would have either made good the deficiency of fee and/or shown that there is inadvertence on the part of Commission as she had deposited the money. Having not been given any opportunity to do so, at this belated stage it is difficult to say, if it was entirely her fault in not having deposited the requisite fee. For such procedural inadvertence, if at all it has been committed on her part, she cannot be put to such irreversible and harsh consequences, despite being more meritorious than selected candidates in the said category.

15. In the aforesaid premise, writ petition is allowed. Respondents are directed to issue appointment letter to the petitioner for the post of MPHWH (Female) with consequential benefit of seniority and notional pay fixation as per the revised merit list.

16. Since the main case has been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

**March 22, 2022**  
*ashish*

**( ARUN MONGA )**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No