

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6521-2018

Date of decision: 08.12.2022

SEELOCHANA

...Petitioner

VS

HSSC THROUGH SECRETARY

..Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. J.P.Sharma, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Anshul Baghla, Advocate,
For Mr. Chanderhas Yadav, Advocate,
For respondent No.4.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondent to declare the petitioner as selected on the post of Supervisor (Female) against advertisement No.07/2016, category No.18 in the Outstanding Sports Person Scheduled Caste category.

2. Facts as pleaded in the petition. 126 posts of Supervisor (Female) in the Women and Child Development, Haryana, were advertised by the respondent being the recruitment agency of the State of Haryana. Petitioner applied for the same in the Outstanding Sports Person, Scheduled caste (OSP SC) category. There were total two seats for the OSP SC category. Petitioner cleared the written test, was called and appeared for interview. She being the sole candidate in the OSP SC category duly qualified and her documents were also scrutinized but when the result was declared, petitioner was not selected. Hence, the instant petition.

3. The grievance of the petitioner is two fold:

- a) That in the advertisement it was nowhere specified that the sports achievement has to be duly graded by the Sports Department; and
- b) That in the advertisement it was also not specified that in case eligible sportsperson are not available then horizontal reservation is to be offered to the non-sportspersons within the same vertical.

4 Reverting to the second argument first. I see nothing wrong in the procedure adopted by the Selection Committee of offering the seat meant for outstanding sportsperson to a non-sportsperson, in case a candidate is not available in that category as long as the same was offered within the same vertical. In the present case, petitioner had applied as an Outstanding Sports Person (OSP) in SC category and since no outstanding sportsperson as per the merit was available, the post has been offered to non-sports person but belonging to SC category.

4.1. In this regard, reference may be had to Chief Secretary's Instructions dated 07.10.2008 (Annexure R-2), which clearly state as below:

“From

The Chief Secretary to Government of Haryana.

To

- 1. All the Financial Commissionaires & Principal Secretaries and Commissioner & Secretaries to Government of Haryana.*
- 2. All Heads of Departments,*
- 3. The Registrar,*
- Punjab & Haryana High Court, Chandigarh.*
- 4. The Commissioners, Ambala, Hisar, Gurgaon and Rohtak Divisions.*
- 5. All the Deputy Commissioners of the State.*
- 6. All CAs/MDs of Boards/Corporations/Public Sector Undertakings.*

Dated Chandigarh, the 07.10.2008

Subject: Reservation of jobs for Outstanding Sports Persons in Group ‘C’ and ‘D’ in direct recruitment.

Sir,

I am directed to refer to Haryana Govt. letter No. 22/15/1992-3GS-III dated 26.07.2001 on the subject noted above vide which 3% horizontal reservation was provided for Outstanding Sports Persons’ in General category, Scheduled Castes and Backward Classes candidates (i.e. 1% each category) to Group ‘C’ and ‘D’ in

direct recruitment. Some Departments have sought clarification that in case, suitable candidates of 'Outstanding Sports Persons' are not available in a particular category, from which category the post will be filled up.

2. *The matter has been considered by the State Government and it is clarified that if suitable candidate of 'Outstanding Sports Persons' is not available in a particular category, then the vacancy will be filled up from amongst the same category. For example if suitable candidate belonging to General Category of Outstanding Sports Person Category is not available, then the post can be filled up from amongst the candidates of General Category like wise in the other categories.*

3. *These instructions should be brought to the notice of all concerned for strict compliance.*

*Yours faithfully
Sd/-*

*Under Secretary General Administration
For Chief Secretary to Government, Haryana.*

Endst. No.22/15/1992-3GS-III

Dated Chandigarh, the 7.10.2008"

5. It cannot be said that by applicability of the aforesaid Instructions, petitioner has been meted out with hostile discrimination since the said Instructions were applied across board to all the candidates who participated in the selection process.

6. In any case, I am of the view *do hors* the Chief Secretary's Instructions, even otherwise criteria adopted by the Selection Committee is fair and just. It is but natural that there cannot be any violation of vertical reservation and the seat reserved in the particular vertical category have to be given to the same category and cannot be shifted to another vertical.

7. Reverting to the other argument that petitioner though had participated in volley ball tournament at District level but the same has not been given any recognition. Once again, the procedure and criteria adopted by the Selection Committee for sports certificate to be duly verified and graded by the sports department is rather fair and just in order to avoid unscrupulous sports person getting the certificate from recognized sports bodies and seeking benefits on the basis thereof. The only way to sift the chaff from grain is that if a competent person in the sports department verifies the sports credential *qua* the performance

of a candidate and issues and authenticates sports gradation certificate. It was in this spirit that all the sports person, who were seeking benefit of their achievements their respective games, were asked to get the sports certificates graded from the sports department.

8. Once again, it is not a case of hostile discrimination as all the candidates were made to undergo the same exercise. It was open for the petitioner to get her sports certificate verified and graded by the Sports Department, which she did not do, as on the date of interview. Therefore, her candidature was rightly not considered in the sports category. On a Court query, it emerges that concededly petitioner has secured less marks than the last selected SC category candidate and her claim in the sports category has rightly not been considered.

9. In the overall premise, no grounds are made out to interfere.

10. Dismissed.

11. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 08, 2022

Vandana

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