

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

CWP-6956-2018 (O&M)

Date of decision: December 07, 2022

Anil Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Amit Aggarwal, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari seeking to set aside final result dated 09.02.2018 (Annexure P-9) declared by respondent No.2, wherein petitioner's name has been mentioned in the waiting list in BC-B category at Sr. No.2.

2. Pledged case is that pursuant to advertisement dated 19.06.2015 (Annexure P-1) and corrigendum dated 06.07.2015 (Annexure P-2) issued by respondent No.2 for various posts in Health Services, Haryana, including the post of Pharmacist, petitioner applied for the same under BC-B category. Written examination was conducted and the result (Annexure P-6) was declared on 09.05.2017. A revised list was later published and candidates were called for interview in the BC-B category, including the petitioner.

2.1. Sometime in the month of November-2017, while comparing the answer key, petitioner found that answer to question No.29 had wrongly been mentioned in it. Petitioner was supplied set 'A'. As per answer key, correct

answer was mentioned as 'D', which means "No error". However, the answer should have been (B).

2.2. Petitioner brought the said error to the notice of respondent No.2 vide his complaint dated 20.11.2017 (Annexure P-8). Respondent No.2 without taking into consideration the said discrepancy, declared the impugned result (Annexure P-9) on 09.02.2018 and the petitioner's roll number is at Sr. No.2 in the BC-B category. Names of respondents No.3 to 8 were recommended for appointment to the post in question. Petitioner's name now figures at Sr. No.1 in the waiting list. Petitioner has answered question No.29 correctly, but yet he has not awarded any marks for the same. On the other hand, candidates, who answered the said question incorrectly, were awarded marks inappropriately. Hence the instant petition.

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

4. At the outset, on a Court query, it transpires that petitioner is indeed in the waiting list of the BC-B category. Qua the vacancy as on today, court order dated 20.03.2018 passed by Rajiv Narain Raina, J. (as he then was in this Court) is of relevance, which is reproduced herein below:

"Apart from minor differences between this petition and CWP No. 5509 of 2018 the broad contention is the same relating to revised answer key of question No.74 is said to be per se incorrect. In the pending writ petition the category is BC-A and in the present it is BC-B.

Notice of motion.

On the asking of the Court, Ms. Shruti Jain Goyal, AAG Haryana accepts notice on behalf of the respondent-State. Mr. Mehndiratta to supply requisite number of paper books to Ms. Goyal during the course of the day.

List on 05.04.2018.

To be heard along with CWP No. 5509 of 2018.

On instructions, Learned Law Officer informs that the Commission has sent its recommendations to the State

Government on 12.02.2018 for the post of Pharmacist. In case appointments have not been offered as per recommendations, one post will be kept vacant in BC-B category. In case, there are other writ petitions in which interim orders have been passed without taking cognizance of the recommendations having been forwarded on 12.02.2018 in those cases as well, posts equal to number of petitioners shall not be filled in the respective category without leave of the Court.”

5. *Apropos*, one post in the BC-B category, in any case, was required to be kept vacant subject of-course to the verification that if no appointments had been made as on the date of passing of the order. Be that as it may, in case, the said post was kept vacant, naturally the same is required to be filled up as per the merit-list and respondents are at liberty to do so. However, after filling up the aforesaid post in BC-B category, 11 posts in the BC-B category would still be left vacant, as is contended by learned counsel for the petitioner and is not controverted.

6. In the premise, writ petition is disposed of without adverting to the merits thereof. It is expected that the respondents would give due accord to the performance of the petitioner, as per his merit. Being at number one in the waiting list, subject to the availability of unfulfilled posts which are contended to be 11, one post will be offered to the petitioner, in order to avoid unnecessary litigation *qua* the adjudication of question No.29. *Prima facie*, correct answer thereof, as per answer-key is though doubtful, but this Court would refrain to sit in opinion over those of experts consulted by commission, in view of the fact that the petitioner is likely to make it regardless, being number one in the waiting list of the BC-B category.

7. In the parting, I may also hasten to add that correctness of sentence requiring adjudication reads as “*I am reminded of an unique incident*”; as to whether the same is grammatically correct or not? Plain

reading of which reveals patent error therein, inasmuch, as the word “unique” since starts with a consonant sound, it has to be thus preceded with ‘a’ and not ‘an’. Regardless, since I have already observed that I would refrain to venture into this issue as it may result in giving directions for carrying out re-evaluation across board qua all the candidates.

8. With the aforesaid observations, writ petition is disposed of. Needful exercise be carried out within a period of 2 months from today.

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

(ARUN MONGA)
JUDGE

December 07, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No