

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.123

CWP-22424-2022

Date of Decision: 28.09.2022

Ramesh Kumar

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

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

Mr. R.S.Budhwar, Addl. A.G.Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioner is that vide Advertisement dated 20.07.2019 (Annexure P-1), various posts were advertised by Haryana Staff Selection Commission. Under category 60, 5 posts of Tool and Die Maker (Dies & Moulds) Instructor were advertised. Out of these 5 posts, 2 posts were to be filled in the General Category, one was to be filled in the category of Eminent Sports Person belonging to the Reserved Category of Scheduled Caste, one post was in the category of Backward Class and one post was for the Economically Weaker Section. The petitioner claiming himself to be Eminent Sports Person and also belonging to the Reserved Category of Scheduled Caste applied for the post under the Eminent Sports Person Category. The petitioner competed but was not found successful on the ground that the petitioner never produced the required gradation certificate for claiming the benefit as an Eminent Sports Person

hence, the petitioner could not be appointed against the post reserved for an Eminent Sports Person belonging to the Reserved Category of Scheduled Caste.

Learned counsel for the petitioner argues that though the petitioner might not have been able to succeed on the basis that he is an Eminent Sports Person but the said post should have been given to him by reverting the said post to the Category of Scheduled Caste as he is the only claimant.

The question which arises in the present petition is that whether the one post which was advertised in the category of Eminent Sports Person, to be filled up from the Scheduled Caste Category, in case the petitioner is not found fit or eligible for appointment as an Eminent Sports Person, can he be appointed by treating the said post in the Reserved Category of Scheduled Caste. The claim of the petitioner is misconceived. The post which was advertised by the respondents was of Eminent Sports Person belonging to the Reserved Category of Scheduled Caste. The petitioner has conceded that he has not been able to substantiate his claim as an Eminent Sports Person hence, petitioner's grievance qua the appointment in pursuance to his application as Eminent Sports Person need not to be adjudicated further.

The claim which has been set up by the petitioner in the present petition is that though the petitioner might not be eligible to get appointment as Eminent Sports Person belonging to the Reserved Category of Scheduled Caste but the petitioner is entitled to be considered as a simple Reserved Category candidate by converting the said post to simple Reserved Category of Scheduled Caste. The said argument is also misleading and can not be accepted. It is a settled principle of law that whenever a post is advertised,

the claim of all the eligible persons are to be considered. In case, the prayer of the petitioner as raised in the present petition is accepted, the petitioner will be the lone reserved category candidate to be considered for appointment, which is impermissible as in the present advertisement, no post of the category in which the petitioner is claiming appointment, was advertised under the Reserved Category of Scheduled Caste hence, no Scheduled Caste candidate has ever got a chance to compete for appointment. Accepting the prayer of the petitioner will amount to non allowing of other eligible candidates to compete for the said post, which is contrary to the said principle of law.

Even otherwise, in case, the prayer of the petitioner that he should be considered for appointment to the post of Tool and Die Maker (Dies & Moulds) Instructor by converting the post reserved for Eminent Sports Person belonging to Scheduled Caste category to that of simple Reserved Category of Scheduled Caste is considered, the same will be misused for the reason that ineligible candidates, who are not sports persons, will then apply and then on being rejected, will claim their consideration by arguing for conversion of the said post to the simple Reserved Category of Scheduled Caste to the exclusion of other eligible candidates of Scheduled Caste Category, who will not even get the chance to compete for these posts, hence, the prayer of the petitioner that he being sole claimant for the post of Tool and Die Maker (Dies & Moulds) Instructor in the category of Eminent Sports Person belonging to Scheduled Caste, be given the said post as a simple reserved category candidate even if he is not eligible as Eminent Sports Person, can not be accepted and is accordingly rejected.

Learned counsel for the petitioner places reliance upon the judgment of Coordinate Bench of this Court rendered in **CWP No.9135 of 2011** decided on 04.05.2013, titled as **Gurpreet Singh Chauhan versus State of Punjab and others**, to submit that the post of the Eminent Sports Person belonging to Reserved Category if not filled, is to be treated in the main reserved category. There is no quarrel with the said proposition. In case, there is already a post advertised in the reserved category along with the post of Eminent Sports Person in the said reserved category, the post can be simply transferred for the reason that the simple reserved category candidates are already in fray, competing for the simple reserved category post but where there is no post advertised in reserved category, the post of the Eminent Sports Person belonging to the Reserved Category, if not filled, has to be advertised again in the reserved category of Scheduled Caste so as to consider the claim of all eligible. Therefore, interpretation being rendered to the judgment of **Gurpreet Singh Chauhan's case (supra)** by the petitioner is not borne out from the said judgment.

Petition stands dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

28.09.2022
Maninder

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