

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

CWP No. 27535 of 2022

Date of Decision : 02.12.2022

Sushil Kumar

...Petitioner

Versus

Haryana Staff Selection Commission and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik Senior Advocate with
Mr. Sachmeet Singh Randhawa, Advocate,
for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the grievance of the petitioner is that the the Economically Weaker Section Certificate dated 07.08.2019 (Annexure P-6) submitted by him, which was attached with the application form, has been ignored by the respondents so as to consider his claim in the reserved category of EWS, while making selection to the post of Electrician Instructor (Practical) as advertised vide advertisement No.12/2019.

Learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner had applied for the post in question being fully eligible and as the petitioner belonged to the EWS and the respondents had reserved 16 posts in the said reserved category, the petitioner's claim for

consideration against the advertised post in the said reserved category needs to be granted.

After the petitioner appeared in the written examination, the result was declared and petitioner had obtained 43 marks, whereas the last selected candidate in the EWS category had obtained 39 marks. The petitioner submits that when he raised the grievance as to how he has not been selected in the EWS category, in which he had applied for, the respondents informed the petitioner that he did not submit the required certificate to be considered in the reserved category of EWS as the certificate dated 07.08.2019 (Annexure P-6) was incorrect and was not meant for appointment in the State of Haryana.

Learned Senior Counsel appearing on behalf of the petitioner submits that once the petitioner applied for issuance of the EWS Certificate by giving the details of the income proof, any certificate issued by the authorities of the Government of Haryana, even if incorrect, cannot cause prejudice to the petitioner so as to claim the benefit under the said reserved category hence, the respondents are under obligation to grant the petitioner the benefit of the said certificate dated 07.08.2019 (Annexure P-6) and consider his claim under the said category for selection and consequent appointment to the post of Electrician Instructor (Practical).

The learned Senior Counsel also relies upon the judgment passed by the Co-ordinate Bench in CWP No. 21217 of 2021 titled as ***Ajay Bamel Vs. State of Haryana and others***, decided on 09.05.2022, to contend that in somewhat similar situation, while passing order in ***Ajay Bamel's case (supra)***, the benefit as being claimed by the petitioner has

already been extended to similarly situated candidate, therefore, the petitioner is entitled for the same relief as extended by the Co-ordinate Bench in *Ajay Bamel's case (supra)*.

I have heard learned senior counsel appearing on behalf of the petitioner and have gone through the record with his able assistance.

It has been brought to the knowledge of this Court that there is a different criteria for the grant of EWS Certificate in respect of the posts, which are to be filled up by the Government of India and in respect of posts, which are to be filled up by the Government of Haryana. The maximum income prescribed for EWS certificate for appointment to a post under the Government of India is ₹8 lacs whereas, for the Government of Haryana, the same is ₹6 lacs and different/separate certificates are issued for both as and when applied for.

In the present case, the petitioner is relying upon the EWS Certificate dated 07.08.2019, copy of which has been appended as Annexure P-6, which clearly depicts that the same is for appointment in respect of jobs with the Government of India and not the Government of Haryana. Keeping in view the above fact, the claim of the petitioner as raised in the present petition needs to be considered. It has been claimed that the EWS certificate which the petitioner is trying to bring into operation, can be taken into account by the respondent-Commission while considering the claim of the petitioner for selection to the post of Electrician Instructor (Practical) as advertised vide advertisement dated 12/2019.

It is a conceded position that the post in question, qua which petitioner was competing and is claiming selection, is with the Government

of Haryana and for appointment under Government of Haryana, a particular certificate is issued so as to consider the claim under EWS Category, wherein, it is clearly depicted that the family income of a candidate is less than ₹6 lacs. In the certificate which has been issued to the petitioner, the family income of the petitioner has been certified to be less than ₹8 lacs and it is mentioned in the said certificate that same is only for appointment qua job offered by Govt. of India. That being so the said certificate (Annexure P-6) cannot be taken into operation for considering the claim of a candidate for appointment against the posts which are within the purview of the State of Haryana under EWS Category.

Learned Senior Counsel appearing on behalf of the petitioner submits that while considering the claim, the respondent-Commission cannot ignore the fact that the family income of the petitioner was less than even ₹6 lacs hence, the petitioner should have been given benefit under the EWS keeping in view the application submitted by the petitioner at the time of issuance of the EWS Certificate dated 07.08.2019 (Annexure P-6).

It is a conceded position that only the certificates are taken into account and not the documents which are relied upon by a candidate for the issuance of the said certificate. Those documents, which are needed for the issuance of the EWS certificate, are within the purview of a particular department which issued the said certificate and the Commission is only required to see the ultimate final certificate which has been issued in favour of a particular candidate. The petitioner should have been careful while accepting the certificate dated 07.08.2019 (Annexure P-6), which clearly depicted that the same is only for the use of jobs/admissions under the

Government of India and the same will not be applicable qua appointment to the posts/admissions with the State of Haryana. Once the petitioner was not diligent enough to notice the same, no grievance can be raised by the petitioner in this regard. Learned Senior counsel conceded the fact that after the last date of submission of application form, petitioner applied for the correct EWS certificate, which is needed for applying qua the post in State of Haryana and same was issued but by the date, selection process was near completion.

As far as the claim of the petitioner that his case is covered by the judgment of the Co-ordinate Bench in *Ajay Bamel's case (supra)*, the same cannot be given benefit for the reason that in the LPA No.873 of 2022, the said order has already been stayed. Even otherwise, the said order was passed on the ground that there was a discrepancy in the certificate issued to the petitioner therein i.e. in respect of mentioning of the income less than ₹6 lacs, it was mentioned “less than ₹8 lacs.” The fact that there are two different EWS certificates issued with respect to the jobs of the Government of India and Government of Haryana was not brought to the notice of the Co-ordinate Bench in the case of *Ajay Bamel's case (supra)*.

Keeping in view the above, no ground is made out for interference by this Court in the facts and circumstances of the present case.

Dismissed.

December 2, 2022
Sapna/kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No