

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

CWP-28412-2022 (O&M)

Date of decision: December 09, 2022

Deepanshu

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Navneet Jindal, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to consider the petitioner for the post of Clerk against Advertisement No.5/2019 dated 20.06.2019 (Annexure P-1) by granting him benefit of 5 marks towards Socio-Economic criteria and 5 marks for experience.

2. Pledged case is that pursuant to advertisement dated 20.06.2019 (Annexure P-1) for the post of Clerk, petitioner applied for the same under Economically Weaker Section (EWS) category. Written examination was conducted and he secured 57 marks. Final select list was prepared, wherein name of the petitioner did not find mention under EWS category. Writ petitions were filed by various candidates challenging the said result, and this Court had directed respondent No.2 to publish fresh list. Accordingly, revised selection list dated 23.06.2022 (Annexure P-5) was issued. Last selected

candidate in the EWS category secured 65 marks and in the waiting list, candidates who secured upto 64 marks were included.

2.1 Petitioner had applied under EWS category and also worked on contractual basis and satisfies the condition of experience as well. He is entitled to 5 marks towards Socio-Economic Criteria. As per clause 2.3 of the advertisement *ibid*, 100 marks were assigned for selection out of which written examination was to be conducted for 90 marks and 10 marks were kept for Socio-Economic criteria (5 marks) and experience (maximum 8 marks) with capping of total 10 marks. Last selected candidate secured 65 marks; if the petitioner is given 10 marks (5 marks towards socio criteria and 5 marks for experience), then his total will be 67. As per information sought under RTI Act, award of 10 marks is considered after document verification, which means marks meant for selection are being used for the purpose of seniority only.

3. On advance service, learned State counsel appears and opposes the petition.

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

5. On a Court query, learned State counsel submits that the petitioner has been misled into filing this writ petition against his own self-styled notion that if had he been given 10 additional marks in the EWS category, then having secured 57 marks in the written examination, his aggregate being 67, he would have made the cut. He submits that as against what is being pleaded by the petitioner, last selected candidate in EWS category has obtained 63 marks in the written examination and the additional

marks, if any, were added after the stage of scrutiny; and petitioner having secured 57 marks in the written examination, was not even eligible for scrutiny, and has therefore, been rightly rejected.

6. Result of the petitioner and/ or that of the last selected candidate is not under challenge.

7. I am not in agreement with the arguments canvassed by learned counsel for the petitioner that additional marks are to be added even prior to the stage of scrutiny of documents and then the candidates of EWS category have to be assessed on their performance. That would amount to putting the cart before the horse, as the entitlement of additional marks has to be naturally based on the performance of a candidate, which has to be ascertained on the basis of documents provided by him at the time of scrutiny of documents. Furthermore, there is nothing on record to show that any selected candidate in the EWS category, with whom petitioner has to compete, got lesser marks in written examination than those of the petitioner.

8. On either fronts, no grounds for interference are made out.

9. Dismissed. Petitioner is granted liberty to approach this Court, in case, he has any information that any candidate having got less than 57 marks, has been given benefit of additional marks in EWS category.

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

(ARUN MONGA)
JUDGE

December 09, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No