

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.231

LPA-510-2020 (O&M)
Date of decision: 05.09.2023

State of Punjab and another

....Appellants

Versus

Harjit Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Deepali Puri, Addl. A.G., Punjab.

Mr. Abhay Gupta, Advocate
for the respondent.

* * *

DEEPAK SIBAL, J. (Oral)

1. The present intra court appeal is directed against the judgment dated 05.11.2019 rendered by a learned Single Judge of this Court allowing the respondent's petition through which she had sought consideration of her candidature for appointment as a Clerk under the Scheduled Castes (for short – the SC) category even though she had applied under the general category.

2. The facts, in brief, which are required to be noticed to adjudicate upon the instant appeal are that through advertisement dated 01.09.2016, the Subordinate Service Selection Board, Punjab (for short – the Board) invited applications to fill up several posts including those of Clerks-cum-Data Entry Operators. A total number of 1759 posts of Clerks-

cum-Data Entry Operators were advertised out of which 705 posts were for the general category and 371 posts were earmarked for the SC category. As per the terms set out in the advertisement, applications only through the online mode could be made between 07.09.2016 and 27.09.2016; applications sent through any other mode were to be treated as cancelled; for the applicants under the general category code 101 was allocated; for S.C. (Mazhabi and Balmiki) the allotted category code was 102; for S.C. (Ramdasia and others) the assigned code was 103; the candidature of the candidates was to be considered only on the basis of the category code under which he/she applied; once a category had been filled up in the application form, the same could not be changed at a later stage and that alongwith the applications the candidates were required to upload scanned copies of certificates supporting their claim for any benefit/reservation sought.

3. The respondent, who is a Masters in Computer Application, applied for consideration of her candidature for appointment as a Clerk under the general category. At the time of filling up of her application the fee deposited by her was the fee which was required to be paid by an applicant under the general category. Being eligible, she was allowed to appear in the prescribed test. On 17.05.2018, the results of the test were declared. Thereafter on 22.09.2018, the respondent appeared in the typing test. After the respondent had appeared in the typing test she made an application dated 01.10.2018 seeking consideration of her candidature under the SC category on the ground that she had inadvertently applied under general category. When the respondent's representation was not

responded to, she knocked the doors of this Court through the petition which has been allowed by a learned Single Judge of this Court. Such judgment is assailed by the State through the instant intra court appeal.

4. Learned State counsel, who appears for the appellant-State, submits that the respondent is Masters in Computer Application; with open eyes she applied under the general category; she paid fee as applicable to a general category candidate; alongwith her application she did not append any certificate claiming reservation; she was issued an admit card to appear in the prescribed test under the general category on the strength whereof she appeared in such test under the same category; in terms of the conditions prescribed in the advertisement, the respondent's candidature was required to be considered only in the category under which she had applied; no change of category was permissible after the application had been submitted by a candidate and that the impugned directions by the learned Single Judge were in direct conflict with the terms of the advertisement which had also not been challenged by the respondent.

5. Per contra, learned counsel for the respondent argues that the State had not disputed that the respondent did belong to the SC category; therefore, even if the respondent by inadvertence did apply under the general category, her case should have been considered under the SC category especially when she is making the merit in the SC category and has also opted to be at the bottom of the merit list of Clerks in such category and that while making the online application once a candidate had applied under the general category there was no available option thereafter to correct such mistake.

6. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.
7. Through advertisement No.4 of 2016 the Board invited applications for 1759 posts of Clerks-cum-Data Entry Operators out of which 705 posts were for the general category and 371 were reserved for the SC category.

The relevant portions of the advertisement read as under:-

“11. Submission of application:

The applicants can submit their application only through online process on the website of the Board www.punjabsssb.gov.in. Applications sent through any other process shall be treated as cancelled.

Different form for each post required to be filled for the above mentioned posts.

12. Category codes

101	General
102	S.C. (Mazhabi and Balmik)
103	S.C. (Ramdasia and others)
104	B.C.
105	ESM Gen.(Self)
106	ESM Gen.(D)
107	ESM S.C. (Self)
108	ESM S.C. (D)
109	ESM B.C. (Self)
110	ESM B.C. (D)
111	Sports Gen
112	Sports S.C.
113	Physical Handicapped (Ortho)
114	Physical Handicapped (Visual Impaired)

115	Physical Handicapped (hearing Impaired)
116	Freedom Fighter

a. The candidates may fill their forms keeping in view the category codes as the said codes cannot be changed at any stage.

b. The benefit of reservation shall only be given to the residents of the Punjab, therefore, at the time of mentioning the category code the candidate shall itself take care of the same. The candidature of the candidates shall be considered on the basis of the category code mentioned by them in the form at the time of filing the online application.

c. xxxxx

13. Brief terms vide which application of the candidates can be rejected:-

- (a) xxxxx
- (b) xxxxx
- (c) xxxxx
- (d) xxxxx

(e) Application received through any other process, except online process or incomplete online process.

14. Reservation Certificate:

a. Certificate of Schedule caste/backward class issued by Welfare Department, as per the instruction of the Punjab and certificate of Ex. Servicemen, issued by their concerned department.

b. The candidates of different categories S.C./B.C., Ex. Servicemen, category, shall submit their certificate, issued by their concerned departments prior to the date of filing online applications.

15. xxxxx

16. xxxxx

17. General Instructions:-

a. The candidates themselves will check the website of the board for latest update.

b. The candidates will themselves held responsible for any mistake done by them at the time of filing online application. The Subordinate Service Selection Board shall have no responsibility with regard to the same.

c. At the time of filing online application, the candidate are advised to fill their application personally, instead of taking the help of the cyber cafe. Once you filled the date in the application form, there will be no permission to change the same and in the event of any incomplete column or incomplete form, the same shall be treated as cancelled. At the time of applying online, the candidates will upload their certificate by scanning the same.

d. xxxxx

e. The candidates shall fill their category carefully, once a category is filled, the same not likely to be changed.

f. xxxxx

g. xxxxx

h. xxxxx

i. At the time of counseling, recommendation shall not became the officer.

j. xxxxx

18. How to apply online:-

1. The candidates will apply online on the website of the Board www.punjabsssb.gov.in from 07.09.2016 till 27.09.2016. Candidate shall scan

and upload their signature, passport size photographs and necessary educational and category related certificates at the time of registration. Fee depositing challan will be generated only after uploading these candidates. The last date to deposit the fees will be 30.09.2016. Print will be generated after candidate complete the online application.”

8. As per the afore reproduced portions of the advertisement a candidate applying in response to the advertisement was to carefully fill up his application form but only through the online mode. Such candidate was further required to clearly specify in his application the category under which he sought consideration of his candidature and in case reservation was claimed a scanned copy of the certificate on the basis whereof such reservation was sought was also required to be appended alongwith the application form. After the application had been submitted no change of category was permissible.

9. The afore terms of the advertisement had and have not been challenged by the respondent. Therefore, they bind her and would also govern the selection process. To hold otherwise could be chaotic. The selections would not get finalized or at least be indefinitely delayed which would not be in public interest.

10. Admittedly, the respondent's application was made by her for consideration of her candidature under the general category. Along with her application she had paid the fee which was required to be paid by applicants applying under the general category. Alongwith her application she also did not append any scanned copy of the certificate on the basis whereof she

now seeks consideration of her candidature under the SC category. The admit card issued to her to appear in the prescribed test was also under the general category. In the light of the afore discussion and the clear terms of the advertisement, after having applied under the general category, a subsequent change in category cannot be permitted especially when she made such request for change after nearly 02 years of having made her application as also after having taken part virtually in the entire selection process as a candidate under the general category.

11. The plea of inadvertence on the respondent's part at the time of making her application also cannot be accepted in the light of the fact that she is a Post Graduate and incidentally a Post Graduate in Computer Application.

12. In view of the above, the impugned judgment of the learned Single Judge is set aside. Resultantly, the respondent's original writ petition is dismissed.

13. The appeal is allowed in the above terms.

14. No costs.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

September 05, 2023
Jyoti 1

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