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

CWP-9097-2023

Date of Decision: 21.12.2023

SACHIN AND ANR

...Petitioners

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Himanshu Sharma, Advocate
for the petitioners.

Mr. Harish Rathee, Senior DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, grievance of the petitioners is that the petitioners have competed for the post of Laboratory Technician as advertised vide advertisement No. 15 of 2019 dated 07.09.2019.

2. Learned counsel for the petitioner argues that the petitioners competed for the said post in the reserved category of Scheduled Caste. As per the result declared, the petitioners were placed at serial Nos. 2 & 3 in the waiting list and could not be accommodated against the post advertised.

3. As per the averments made in the writ petition, one post in the reserved category of Scheduled Caste became vacant due to the cancellation of appointment of one of the selected candidate in the various categories of Scheduled Caste due to which, a candidate who was at serial No.1 in the waiting list in the reserved category of Scheduled Caste was accommodated.

3. Further, it has been mentioned in the pleadings that thereafter,

the candidature of another six candidates who were selected, was cancelled and out of the six candidates, two candidates belonged to the category of ESM(SC) . Learned counsel for the petitioner further argues that the said two posts should be given to the petitioners being the reserved category candidates by converting the posts in the main category of SC.

4. Learned counsel for the respondent is opposing the plea of the petitioners on the ground that though two posts in ESM (SC) category became vacant upon cancellation of the selection/appointment of the two candidates, but, the same is to be filled up from the same category i.e. ESM(SC) and the said post cannot be allotted to the candidates of reserved category of SC.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The only question which arise for the determination in the present petition is that whether any post which is reserved for ex-serviceman SC, and remains vacant, can be filled up from the reserved category of Scheduled Caste which is the main reserved category.

7. It is a conceded fact that the quota reserved for Scheduled Caste is calculated and then number of posts available in the said quota are then bifurcated into the various other sub categories and in the present case, once the petitioners actually belong to the reserved category of Scheduled Caste, and the vacant posts belong to the category of ex-serviceman (reserved for Scheduled Caste), the petitioners are entitled for consideration of their claim against the said posts.

8. Learned counsel for the respondents submits that as per the

reply, there are no vacant posts which are available for the consideration of the claim of the petitioner. In case there are no posts available for the consideration of the claim of the petitioners, then the respondents will pass appropriate order giving the details as to how many posts in the reserved category of Scheduled Caste were advertised and how many people have been appointed in the said category, the claim of the petitioners be considered in case any posts reserved for a Scheduled caste candidates remains vacant.

9. Let the respondents pass appropriate order keeping in view the observations of the Court in the present order within a period of eight weeks of the receipt of certified copy of this order and in case any relief for which the petitioner is found entitled, the same will be extended to them within a further period of four weeks but if the same is denied, detailed reasons be mentioned in the speaking order itself for denial of the claim of the petitioners.

9. Ordered accordingly.

(HARSIMRAN SINGH SETHI)
(JUDGE)

21.12.2023

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