

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

LPA No.907 of 2021

Date of Decision: 11.04.2023

Vinay Sharma

.....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Vijay Pal, Advocate for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 22.05.2020, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: pursuant to an advertisement dated 28.06.2015, Haryana Staff Selection Commission ('Commission') invited applications for selection and appointment to various posts of Post Graduate Teachers (PGT H.E.S-II (Group-B) Services). The appellant competed for selection to the post of PGT Chemistry (Category 2 of total 34 categories) in the general category. Of the total 442 posts (PGT Chemistry), 170 posts were unreserved. Whereas, 17 posts were reserved for Economically

Backward Person in General Caste category ('EBPG Category'). He submits that appellant belong to EBPG Category and even possessed a certificate dated 08.08.2013 (P-8), issued by the competent authority. But, in the application, submitted by him, owing to an inadvertent error, he mentioned his category as general. It is urged that the said certificate fully substantiates his claim being a candidate in EBPG Category. And, for the advertisement (ibid) was issued much later than the certificate the appellant possessed, he could not have been denied the benefit of reservation. He asserts that apparently the mistake is *bona fide* and is a result of an accidental omission. Therefore, the appellant ought to have been afforded an opportunity to rectify the error. As before the learned Single Judge, reliance is placed upon a decision of the Division Bench of this Court in **CWP No.14863 of 2017 (Sarla Vs. State of Haryana and others)**, decided on 31.10.2018 (A-2).

We have heard learned counsel for the appellant and perused the records.

Concededly, the appellant competed for selection in the general category. In the application form, submitted by him, he signed a declaration stating that his statements in the form were true to his knowledge and belief and that he had carefully read the terms of the advertisement and undertook to abide by them. The terms of the advertisement clearly stipulated that the candidate was required to

upload, along with the application form, scanned copies of the BC-A/BC-B/SC/PHC/SBC/EBPG Certificate, issued by competent authority. Thus, the argument that appellant possessed a certificate dated 08.08.2013, being the EBPG category, much prior to issuance of the advertisement dated 28.06.2015, would not advance his case either. For, he failed to upload the said certificate with the application form. It is not disputed that neither as per the advertisement nor under the rules governing the selection process there was any provision that entitled the candidates to seek a change in their category status. As observed even by the learned Single Judge we would have viewed the matter from a different perspective had the appellant uploaded the scanned copy of the EBPG Category certificate along with his application form. Learned Single Judge also relied upon the decision of the Supreme Court in **J & K Public Service Commission Versus Israr Ahmed and others 2005 (12) SCC 498**, wherein it was concluded that once a candidate had chosen a particular category he could not be permitted to seek a change in his category status at a later stage. Further, even this Court in ***Suman Khatri Vs. Haryana Public Service Commission and others*** (LPA-380-2022, date of decision: 12.05.2022), dismissed the appeal, while referring to the observations made by the Supreme Court in ***J & K Public Service Commission Vs. Israr Ahmad, 2005 (1) SCC 498*** that once a candidate has chosen to opt for category to which he is entitled, he cannot later change the status and make a fresh claim. Likewise, in ***Sweetly Nagar Vs.***

State of Haryana and another (LPA-226-2022, date of decision: 23.08.2022), this Court dismissed the appeal, for the advertisement contained a clause cautioning the candidates that no change would be allowed after final submission.

The reliance placed upon a decision, rendered by the Division Bench in **Sarla (supra)**, by learned counsel for the appellant, is equally misplaced. For, a candidate therein had uploaded the correct category certificate even though reserved category was wrongly mentioned as BCB instead of EBPG. Whereas the appellant before us had wrongly mentioned the category as 'general' and also failed to upload any certificate in support of his claim/candidature. Further, the candidate therein represented to the authority for correction of her category almost immediately on 27.04.2017 after the closing date i.e. 01.03.2017. Whereas the appellant, despite being conscious of the fact that in his application form, he filled his category as general and throughout competed as a general category candidate, never chose to seek correction of his category status. And more than a year after the results of the written examination was declared on 06.02.2017 (P-4), in which he failed to make a cut, he eventually made a representation dated 14.08.2018 (P-7). Further, in the case of **Sarla (supra)**, the candidate was a poor widow and was working as Anganwadi worker at the time she submitted her application form. Whereas the appellant possessed the qualification of B.Ed. and M.Sc. Chemistry, and thus,

being so well educated would be presumed to have read all the relevant clauses/notes/important informations before submitting his application form.

We are in agreement with the conclusion arrived at by the learned Single Judge that present was not a case of *bona fide* mistake that was sought to be rectified but essentially a claim for change of category. After having participated in the written examination as a general category candidate and having failed to secure sufficient marks to remain in the zone of consideration, the appellant sought to change his category status. Further, there would be many such candidates like appellant, who given a chance would opt for a change in their category status. Thus, any interference in the selection process, initiated in June 2015, would not only vitiate its sanctity but have serious ramifications/repercussion.

In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

11.04.2023

Manoj Bhutani

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No