

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.10106 of 2020(O&M)

Date of Decision.01.02.2023

Satya Dev

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Yuvraj Shandilya, Advocate for
Mr. Rahul Sharma-I, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Hitesh Pandit, Advocate
for respondent No.3.

Mr. R.S. Chahal, Advocate
for respondent No.6.

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JAISHREE THAKUR J. (ORAL)

1. The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of Certiorari, quashing the recommendation list (Annexure P-6) to the effect that name of respondent No.6 has been recommended for appointment to the post of Shift Attendant against the category of Visually Handicapped Persons whereas he belongs to the category of Orthopaedic Handicap.

2. In brief, the facts as enumerated in the writ petition, are that respondent No.2-Haryana Staff Selection Commission advertised 2426 posts of Shift Attendants vide Advertisement No.3 of 2016, out of which 23 posts were reserved for Orthopaedic Handicap; 36 posts were reserved for candidates suffering from Hearing Impairment (Partially Deaf) and 23 posts were earmarked for Visually Handicap persons. The petitioner herein applied under

the category of Visually Handicap and duly participated in the selection process and remained at Sr. No.2 in the waiting list while securing 60 marks. Against total 23 posts reserved for Visually Handicap persons, the respondent No.2-Commission selected 9 candidates, out of which 8 candidates joined and one candidate declined to join against the post. In 8 selected candidates, one candidate namely Ramesh Kumar-respondent No.6 has been appointed under the Visually Handicap category whereas he belonged to Orthopaedic Handicap category and therefore, appointment of respondent No.6 is not sustainable. The petitioner stood at Sr. No.2 in the waiting list and in case, appointment of respondent No.6 is declared illegal and invalid, he is entitled for appointment under Visually Handicap category, as one candidate has already refused to join and his appointment has been cancelled.

3. Learned counsel appearing for the petitioner would contend that one candidate had not joined and as such, his appointment has been cancelled and appointment of respondent No.6 is liable to be cancelled owing to the fact that he does not belong to Visually Handicap category. The petitioner herein stands at Sr. No.2 in the waiting list and therefore, he is eligible for appointment to the post of Shift Attendant under Visually Handicap category.

4. Pursuant to notice of motion issued, learned counsel appearing for the respondent-State had informed that services of respondent No.6 have been terminated as he was appointed against the post reserved for Visually Handicapped persons whereas he belongs to Orthopaedic Handicap category as reflected in the order dated 01.12.2020 passed by this Court. With regard to appointment of the petitioner to the post, which fell vacant on termination of respondent No.6, the counsel sought time to get necessary instructions.

5. Learned counsel appearing for respondent No.3-Nigam would submit that candidate at Sr. No.1 in the waiting list has refused to join.

6. I have heard learned counsel for the parties and with their assistance have gone through the pleadings. The petitioner is visually handicapped and had appeared as such, for appointment to the post of Shift Attendant. The merit list was wrongly prepared by the respondent-Commission as one person i.e. respondent No.6, who was physically handicapped was appointed in the category of the Visually Handicap. As of today, appointment of respondent No.6 stands cancelled and therefore, there is one vacancy available under the Visually Handicap category. The person in waiting list at Sr. No.1 has refused to join and therefore, petitioner, who is at Sr. No.2 in the waiting list, would be entitled for appointment. If a correct merit list had been prepared, the petitioner would have had a chance for appointment much earlier.

7. In view of the aforesaid fact, the instant writ petition stands allowed. The respondent No.2-Commission is directed to recommend the name of the petitioner herein for appointment to the post of Shift Attendant under Visually Handicap category within a period of two weeks from the date of receipt of certified copy of this order and thereafter, respondent No.3 will issue him appointment letter forthwith. The petitioner shall be entitled to all consequential notional benefits.

(JAISHREE THAKUR)
JUDGE

February 01, 2023
Pankaj*

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