

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

228

**CWP No.11307 of 2019
Date of Decision : 4.12.2023**

*Rohtash**..... Petitioner**versus**State of Haryana and others**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Keshav Gupta, Advocate, for the petitioner

Mr. Rohit Arya, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed, *inter alia*, seeking a direction to consider the petitioner's case under Economical Backward Person in General Caste (EBPGC) category for the post of Post Graduate Teacher/ PGT-Biology pursuant to advertisement no. 4 of 2015 dated 28.6.2015, Annexure P-3.

2. As per undisputed facts on record, the advertisement was notified on 28.6.2015, and closing date to submit online applications was 21.9.2015. Since the petitioner was an applicant to the earlier advertisement no.1 of 2014, which was withdrawn vide public notice dated 12.5.2015, he applied as a general category candidate for the instant advertisement also on that basis, and availed the fee waiver by furnishing proof of fee deposited pursuant to the earlier application. He participated in the selection process and cleared the Subject Knowledge Test also.

During scrutiny of documents, he was considered as a general category

candidate and documents were verified to be correct, as is apparent from the attendance sheet, Annexure R-3/1. Result of selection was declared on 8.3.2019, but the petitioner could not be selected on account of scoring less marks. The last selected candidate in general category secured 148 marks, whereas the petitioner secured 143 marks. Thereafter, remaining unsuccessful, the instant petition has been filed by him on the ground that he actually belongs to EBP GC category. Reservation for which was provided after issuance of the earlier advertisement no.1 of 2014, and a certificate to that effect was also issued to him on 23.6.2015, Annexure P-2. Therefore, he should be allowed to change the category from general to EBP GC on that basis, and be considered for appointment against the vacant post of this category, as out of five posts advertised for the category, only four have been filled.

3. Learned State counsel, on the contrary, contends that the petitioner's candidature cannot be considered under EBP GC category, as he applied as a general category candidate and considered as such. No representation or request was received from him regarding change of category till final declaration of the result. Therefore, at this stage, when the selection process is over and appointments have been made, the request cannot be considered.

4. Heard.

5. As per undisputed facts on record, the petitioner applied as a general category candidate and was so considered for selection. Only on remaining unsuccessful after declaration of the final result, the instant petition has been filed seeking change of category on the ground of EBP GC certificate, dated 23.6.2015, issued to the petitioner. The plea

cannot be entertained at this stage, since he willingly participated in the entire selection process as a general category candidate, without ever seeking change of category. Even if reservation to EBP GC category has been provided after issuance of the earlier advertisement no.1 of 2014, it cannot be lost sight of that he consciously did not apply under the said category in response to the instant advertisement no.4 of 2015, and never ever claimed that due to inadvertence he applied under a wrong category. After participating in the selection process and remaining unsuccessful, he cannot be permitted to turn around and seek consideration under a different category merely because its seat is vacant. There is no such procedure; rather, the settled law is to the contrary.

6. In view thereof, there is no merit in the petition.

7. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

4.12.2023

Ashwani

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