

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

2023:PHHC:166914

220

CWP-12218-2022

Date of Decision: 20.12.2023

POOJA RANI

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Govind Mor, Advocate for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Ms. Nitika Goel, Advocate for respondent No.3.

SANDEEP MOUDGIL, J. (ORAL)

1. Prayer in the present petition is for quashing the order dated 21.12.2021 (Annexure P-18) whereby the claim of the petitioner for awarding 5 marks of Social Economic Criteria for No Govt. Job in the family against category No.4 has been rejected.

2. The crux of the present case is that vide advertisement No.11/2019 dated 05.07.2019, Category No.4 and 26, the Haryana Staff Selection Commission, Panchkula had advertised 440 posts of LDC for Dakshin Haryana Bijli Vitran Nigam Ltd. and 495 posts of same Cadre in Uttar Haryana Bijli Vitran Nigam Ltd. Further, as per paragraph No.2.3 (iii) (a), a candidate was entitled for 5 marks on account of Social Economic Criteria for No Government Job in his family. Being fully eligible and qualified for the said post, the petitioner applied for the same against Category No.4. It is further averred that the petitioner inadvertently mentioned 'Yes' before the concerned column of

Govt. Job, whereby the petitioner was married at that point of time and no one in her family was in Government Job. Thereafter, the petitioner submitted an application for changing the application form and to consider the “yes” as “no”. Thereafter, the Commissioner issued the admit cards and Roll Numbers. The petitioner’s roll number was 1194006145. The petitioner cleared the written examination and was called for scrutiny of documents. During the verification of the documents, the authorities asked the petitioner to submit an affidavit in case she wants to rectify the mistake made in the application form. Accordingly, the petitioner furnished the requisite affidavit dated 04.03.2021 with the respondent authorities well in time. The total marks in the written examination secured by petitioner were 60 and in case, 5 marks are given to her credit on account of social economic criteria, then the total comes to 65 marks and she would have find her place in the selection list. Hence, the petitioner submitted a representation to the respondent-Authorities for awarding 5 marks on account of Social Economic Criteria. But the respondents did not take any action till date, whereupon the petitioner got served a legal notice dated 31.07.2021 for seeking redressal of his grievance but still the same remained unfruitful. Finally, the petitioner filed a CWP No.20033 of 2021, which was disposed of while directing the respondents to consider and decide the above mentioned legal notice within a period of two months. Thereupon, the respondents rejected the claim of the petitioner for awarding 5 marks vide impugned order dated 21.12.2021. Hence the present petition.

3. Short replies have been filed by respondents No.2 and 3 respectively. Respondent No.3 has taken a specific stand in its reply that the legal notice had been decided by respondent No.2-Commission and as such, respondent No.2 has no role to play at this juncture. Whereas, the respondent

No.3 has taken a plea that it is nowhere mentioned that the 05 marks shall be awarded to a married woman. Hence, the biological family of the candidate is to be considered in this regard. Moreover, the petitioner has herself mentioned “yes” in the concerned column of Government Job in Family. Hence, the dismissal of the petition was prayed for.

4. I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

5. After hearing both the parties, it is evident that the claim of the petitioner is for grant of 05 marks on ground of social economic criteria of “no govt. job in family. Further, the respondent No.2-Commission has declined the claim of the petitioner firstly on the ground that it is nowhere mentioned in the advertisement that the alleged benefit of 05 marks shall be given to married women also; and secondly on that the ground that the petitioner has herself mentioned “Yes” in the concerned column of Govt. Job in Family.

6. In my considered view, both the grounds taken by respondent No.2-Commission are vague and baseless. Because an advertisement of vacancy against any post is always meant for both category of persons i.e. married as well as the unmarried. There is no bar that a married person cannot apply for any advertised post. If it would have been the intention of the Commission, then it must have mentioned in the advertisement itself that the married person are not eligible to apply. Having not done so, the applicant was fully entitled and eligible to apply for the said post. Moreover, the respondents have nowhere mentioned that the petitioner is not married or has been married after the issuance of alleged advertisement. If a married female candidate applies for the post, then the term “family” must stand for the in-laws family of

such married female. Hence, the objection raised by respondent No.2 that the biological family of the candidate/petitioner is to be considered, is hereby rejected.

7. As far as the second objection of respondent No.2-Commission with regard to mentioning “Yes” by the petitioner in the concerned column of Govt. Job is concerned, the same is also not tenable in the eyes of law. Because, it has apparently been mentioned by the petitioner that the same was a bonafide mistake and she mentioned “yes” due to oversight and inadvertence. Even she also made subsequent efforts to rectify the mistake by way of filing an application; then by filing an affidavit; then by a representation and lastly by a legal notice. But the respondents did not pay any heed. It is also not the case of the respondent No.2-Commission that any of the family member in the in-laws’ family of petitioner is in Government Job or that there was some material concealment on the part of the petitioner in this regard. A bonafide mistake is always liable to be rectified at any stage, because the statute is meant to benefit the public at large and not for causing harassment. Hence, the second ground of the respondent No.2-Commission also goes.

8. Consequently, the action of the respondents in declining the claim of the petitioner for awarding 05 marks on account of social economic criteria is wholly illegal, wrongful and arbitrary. Hence, keeping in view the totality of the facts and circumstances of the present case, I am of the opinion that the present petition deserves to be allowed.

9. Ordered accordingly.

10. The respondent No.2-Commission is hereby directed to award 05 marks to the credit of the petitioner on account of social economic criteria and to consider the petitioner for selection in her category of BC “A” if she qualifies

for the same. The seniority position of the candidate shall be fixed at the end of the select list with all consequential benefits; and the pay of the petitioner shall be fixed accordingly while computing the notional increments from the date when the last selected candidate had joined. However, the actual monetary benefits shall be given to the petitioner from the date of her joining the department.

20.12.2023
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No