

CWP No.12646 of 2021

[1]

2023:PHHC:060906

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107

CWP No.12646 of 2021

Date of decision:25.04.2023

Bharat Bhushan

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Suresh Kumar, Advocate for
Mr. Lakshay Bajaj, Advocate, for the petitioner.

Mr. Pankaj Middha, Addl.A.G., Haryana
for respondents No.1 to 3.

None for respondents No.4 to 6.

SUVIR SEHGAL, J. (Oral)

1. Petitioner has approached this Court *inter alia* seeking issuance of a writ in the nature of mandamus directing the respondents to select the petitioner in the ESM General category and for setting aside the selection of the private respondents.

2. In nutshell, facts leading to filing of the petition are that the petitioner was an applicant for the post of Station Supervisor advertised, vide No.7/2015 (Annexure P-1). 38 posts were advertised, out of which 11 posts were reserved for General category and 03 posts were meant for Ex-Servicemen General category (ESM-General). Petitioner applied in the category of ESM-General. Petitioner successfully cleared the written test and his documents were found in order. He was called for interview, vide notice dated 30.12.2017 (Annexure P-2). Subsequently, some more candidates were called for interview. Respondent No.4, filed a writ petition

before this Court claiming that although he had qualified the written examination, but he was not called for interview. By order dated 12.03.2018 (Annexure P-3), writ petition was disposed of with a direction to the Haryana Staff Selection Commission-respondent No.2 to examine the grievance of the petitioner. In compliance thereof, order dated 24.04.2018 (Annexure P-4) was passed, whereby, petitioner was held to be ineligible. This was challenged by the petitioner and respondent No.4 by filing separate writ petitions, which were disposed of on 08.05.2019 (Annexure P-5) as having been rendered infructuous. Final result was declared on 21.05.2021 (Annexure P-6), but petitioner's roll number was not mentioned therein despite the fact that the petitioner had scored more marks than the last selected candidate in the General category.

3. Upon notice, writ petition has been contested by the Commission-respondent No.2 by filing a short reply.

4. I have heard counsel for the parties and considered their respective submissions.

5. It is evident from the stand taken by respondent No.2 that the petitioner has scored 147 marks (136 marks in the written examination and 11 marks in the interview), whereas, the last selected candidate in the petitioner's category, i.e., ESM-General, has scored 151 marks, therefore, the petitioner had lesser marks than the last selected candidate.

6. In addition, respondents has submitted as under:-

“6. That it is worthwhile to mention here that the petitioner in the present writ petition has also contended to select

respondent No.4 and 5 in General category being eligible and higher in merit in open category of General in place of last three selected candidate in General category in order of merit and also further contended that the petitioner himself has also secured higher marks than the last selected candidate in General category. In this regard, it is submitted that the petitioner and respondent no.04 and 05 had applied for the post in question under ESM-Gen Category. It is worthwhile to mention here that as per the worthy Chief Secretary instructions no.22/10/2013-IGSIII dated 15.07.2014, there will be horizontal reservation for Ex-Servicemen/freedom fighter/outstanding sports person and not vertical reservation irrespective of the fact that the candidate has scored higher marks than the candidates who had applied under parent category i.e. General Category. Further, the final result dated 21.05.2021 (Annexure P-6) declared by the answering respondent is upto the mark and last three selected candidate in General category and respondent no.4 and 5 has rightly placed as per their merit.

It is further worthwhile to mention here that the respondent Commission being a recruiting agency is bound by the worthy Chief Secretary instructions no.22/10/2013-1GSIII dated 15.07.2014 and the terms and conditions of the concerned department and commences the selection procedure

accordingly. The copy of instructions dated 15.07.2014 is annexed herewith as Annexure R-2/3.

7. That it is further relevant to mention here that it has been specifically mentioned in the Advt.07/2015, Cat.No.22 dated 10.07.2015 (Annexure P-1) that the age criterion for the post in question for General category is 18 to 42 years of age. But the petitioner, respondent No.4 and respondent No.5 are over-age for the post in question i.e. more than 42 years of age in view of the last date of filing of application form i.e. 23.11.2015 and as such cannot be considered against General category post. The details of date of birth of the petitioner and the respondents are as under:-

	Date of Birth	Age Criteria
Petitioner	01.11.1968	18 to 42
Respondent No.4.	20.10.1973	
Respondent No.5	02.07.1970	

Hence, in view of the submission made above, due to age factor they are otherwise also not eligible for the post in question under General category.”

7. In view of the above position, which has not been controverted by the petitioner by filing a replication, there is no merit in the petition, which is hereby dismissed.

April 25, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes