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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-20231-CWP-2023 in/and
CWP-13118-2023 (O&M)
Date of Decision: 05.12.2023

Mohammad Saleem

. . . . Petitioner

Vs.

State of Punjab and another

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Ghulam Nabi Malik, Advocate,
for the petitioner.

Mr. Paramjit Batta, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The matter comes up on an application. The main case is preponed and is taken up today itself.
2. Admittedly, the petitioner applied for the post of Teacher (English) under two categories, firstly, under the backward class category, and secondly, under the sports category.
3. Learned counsel for the petitioner submits that under the sports category, the counseling was conducted on 21.10.2022 and on that day, petitioner was participating in Punjab Khed Mella competition held by the State Government and Kick Boxing matches were held on 21/22.10.2022, and therefore he was unable to attend the counseling/scrutiny of his documents. 15 posts remained unfilled out of the total 23 posts marked for sports category persons. The respondents are not considering the candidature of the petitioner although he possesses several certificates in boxing championship, and

in the recent kick boxing championship of 2022-23, he was awarded a silver medal.

4. Learned counsel for the petitioner further submits that the respondents have filed their reply and it has been stated that the petitioner's merit, even otherwise under the backward class category was at no.112 while the last candidate who has been selected was having merit at no.114, and therefore even otherwise the petitioner was entitled for being appointed.
5. Taking into consideration the short issue involved, this case was heard finally at this stage itself.
6. The petitioner admittedly is a sports person and he was not considered as the respondents conducted scrutiny on a day when a tournament was going on where the petitioner had participated at the State level. It is informed that he has also scored silver medal in the said tournament, which has been placed on record. The petitioner being a sports person has even otherwise come within the merit of BC category having merit of 112, but he has not been offered appointment and the person lesser in merit, admittedly in terms of para 4 of the reply, has been offered appointment.
7. Learned counsel for the State has vehemently argued that the petitioner could not be treated to be considered under the sports category for the reason that as on the last date of submission of application form i.e. 15.05.2022, he did not possess the sports gradation certificate which has been issued by the Department of Sports, Punjab only on 14.03.2023. Learned counsel has invited attention to the note of the advertisement which reads as under:

“The Academic/Professional qualifications, certificate of the candidates shall be issued on or prior to last date of submission of applications. The certificates of different categories for claiming benefit of reservation like S.C./S.T., Physical Handicap and other requisite certificate will be considered only after submission/checking at the time of scrutiny. No representation of candidates will be considered.”

8. Thus, when the scrutiny was conducted on 22.10.2022, the petitioner would not be possessing the aforesaid sports gradation certificate, and he therefore could not have been appointed under the sports category.
9. As per the Rules, the post remained vacant in general sports category, and therefore as per rules it would be filled from general category (sports).
10. Having noted the aforesaid facts, this Court finds that the petitioner had applied against two categories, one is under the BC category and the other is under the general sports category. The petitioner did possess several achievements, medals and certificates as a sports person. However, the gradation certificate has been issued by the Sports Department in March, 2023 although it speaks about his achievements in the year 2022.
11. Be that as it may, this Court finds that the petitioner has been denied selection in the backward class category also. He was admittedly higher in merit than the last selected candidate having merit at no.112, whereas the last candidate selected was at merit no.114.
12. In view thereof, the petitioner is entitled for consideration for appointment in BC category. More so as the posts are lying vacant, one of the posts will have to be offered to him.
13. The respondents would be free to decide whether the candidate, who was lower in merit and has been appointed, is required to be continued or not. The same however, will not in any manner affect the rights of the petitioner who would be entitled for consideration for appointment. Said

exercise shall be conducted by the respondents within a period of one month henceforth.

- 14. Writ Petition is *allowed* in aforesaid terms.
- 15. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

December 05, 2023
Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |