

CM-18692-CWP-2023 in/and
CWP-18221-2018

2023:PHHC:150614

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

CM-18692-CWP-2023 in/and
CWP-18221-2018
Date of Decision : 28.11.2023

Sarita Devi

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Singh Dhull, Advocate for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-18692-CWP-2023

Present application has been filed for recalling the order dated 30.10.2023, by which, the present writ petition was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which is duly supported by an affidavit, coupled with the fact that learned

counsel for the respondents has not objected to the relief as prayed in the present application, the same is allowed. The order dated 30.10.2023 is recalled and the writ petition is restored to its original number and status.

CWP-18221-2018

1. In the present petition, the grievance of the petitioner is that she is entitled for consideration under 2% reservation quota being extended to Dependent of Freedom Fighter as per the Instructions dated 15.07.2014 (Annexure P-5), which benefit has not been given to her. The further prayer of the petitioner is for quashing of the final merit list dated 08.03.2018 (Annexure P-4).

2. Learned counsel for the petitioner argues that as per the Instructions dated 15.07.2014 (Annexure P-5), the posts which remain vacant in the Category of Ex-Servicemen are to be given to the Freedom Fighter but the same has not been granted in the facts and circumstances of the present case, hence, the petitioner is entitled to be considered under 2% reservation in respect of the posts, which have remained vacant in the Category of Ex-Servicemen.

3. In the reply, in paragraph 7, the selecting agency has submitted that all the posts, which were advertised in the Ex-Servicemen Category, have already been filled up and a chart has also been appended as to the number of the posts advertised and the number of candidates selected against the said advertised posts in the Category of Ex-Servicemen. By placing reliance upon the said averments, learned State counsel submits that as there is no vacant post in the quota of Ex-

Servicemen, 2% reservation being claim by the petitioner is not maintainable.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. As per the claim of the petitioner, the advertised posts in the Category of Ex-Servicemen, which remained vacant, are to be given to the Dependent of Freedom Fighter to the tune of 2%. From the reply filed, as well as the final result, copy of which has been appended as Annexure P-4, all the posts, which have been advertised in the Category of Ex-Servicemen, have already been filled up.

6. That being the factual position, as the facts mentioned in the reply have not been controverted by the petitioner even while filing the replication to the written statement, it cannot be said that the claim of the petitioner survives as the claim of the petitioner is only against the post of Ex-Servicemen, which remained vacant to be filled up from the Reserved Category of Dependent of Freedom Fighter, hence, once all the posts have already been filled up in the Reserved Category of Ex-Servicemen, the claim of the petitioner to be considered for 2% reservation against vacant Ex-Servicemen posts cannot be accepted.

7. Further, there is a challenge to the result Annexure P-4. It may be seen that though the result is being challenged but the beneficiaries of the said result have not been impleaded as party. In the absence of any candidate, whose selection is being challenged by the petitioner, no finding can be recorded in favour of the petitioner as the

candidates, who are likely to be affected by the outcome of the said prayer, are not the party to the present petition. It is a settled principle of law that no order can be passed by a Court in the absence of any party, who is likely to be affected by the outcome of the prayer.

8. Keeping in view the above mentioned facts, no ground is made out for any interference by this Court in the present petition.

9. Dismissed.

November 28th, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No