

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

CWP-18557-2022

Date of Decision:12.05.2023

Ajay

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sajjan Singh, Advocate for the petitioner.

Mr. Narinder Singh Behgal, AAG, Haryana.

Ms. Nikita Goel, Advocate for respondent No.2.

JAISHREE THAKUR J. (Oral)

1. The present petition has been filed seeking a writ in the nature of *certiorari* to quash the merit list as prepared by the respondent No.3-Haryana Staff Selection Commission, Panchkula (hereinafter referred to as the 'Commission') whereby the candidature of the petitioner for appointment as an Assistant Lineman (for short-ALM) under the Economic Weaker Section Category (for short - EWS) has been denied.

2. Learned counsel for the petitioner herein would contend that pursuant to the advertisement issued on 05.07.2019 for recruitment to fill up 1307 vacant post of Assistant Lineman in UHBVNL, the petitioner applied under the Economic Weaker Section Category. In his online application form, he had clearly mentioned his category and the EWS certificate number while uploading the same. It is submitted that despite the fact that he had uploaded the EWS Certificate bearing No.EWS/2019/82 dated 25.03.2019 as issued by the Tehsildar, Meham, he was considered under the General category. It is submitted that he had secured 56 marks in the EWS Category and had

sufficient marks to be offered appointment since the last selected candidate had secured only 51 marks. It is further submitted that the petitioner had correctly mentioned the details of his EWS certificate as issued by the Tehsildar, Meham and the same was supplied to the respondent-Commission at the time of scrutiny of documents and therefore, there was no occasion for the respondent-Commission to consider him under the General Category.

3 Pursuant to notice of motion having been issued, replies have been filed on behalf of the respondent-Commission as well as the Nigam, wherein a categorical stand is taken that the case of the petitioner was considered under the General category on account of the fact that even though the petitioner had made a mention of the EWS Certificate as issued by the Tehsildar, Meham, he had uploaded a certificate which was pertaining to jobs under the Government of India. It is submitted that once the document on the basis of which the petitioner is seeking the benefit of being under the EWS category was not uploaded, the Commission had no option but to consider him under the General category. Counsel would rely upon the terms and conditions as set out in the advertisement itself.

4. I have heard learned counsel for the parties and have perused the pleadings of the case as also photocopy of the record.

5. The photocopy of the record pertaining to the online application form and the documents as uploaded and supplied at the time of scrutiny of documents has been produced in court today. The record would reflect that in the online application form, the petitioner herein had relied upon and mentioned the details of his category as : EWS Certificate bearing No.EWS/2019/82 dated 25.03.2019 as issued by the Tehsildar, Meham. It would appear that the petitioner had inadvertently uploaded *Income and Asset Certificate, as issued by the Tehsildar, Meham dated 21.06.2019* which in fact

would entitle him for jobs under the Government of India, considering that his income was under Rs.8 lakhs, whereas the requirement to get a job under the EWS category in the State of Haryana is that a person must have an income/assets under Rs.6 lakhs. The record would also reveal that the petitioner had supplied his EWS certificate as issued by the Tehsildar, Meham dated 21.6.2019, the same certificate whose details were mentioned in the online application form, at the time of scrutiny of documents. The photocopy of that certificate as issued by the Tehsildar, Meham is part of the record.

6. The question that would arise for determination is whether the petitioner would be entitled to appointment for a job as an ALM under the EWS category based on the certificate whose details though mentioned in the online application form, but the certificate was not uploaded and a wrong certificate was uploaded. In the opinion of this Court, the category of the petitioner remains the same. He belongs to the EWS category as clearly mentioned in the certificate, which was mentioned in the online application form and the certificate which has been supplied to the Commission at the time of scrutiny of documents. It is not a case that there is any forgery of documents or that the petitioner is seeking a change in his category. It is also not the case that the relevant certificate, as relied upon, was either issued post the last date of submission of application form or the details were never uploaded. The details of the documents as relied upon by the petitioner were available with the Commission at the time of scrutiny of documents.

7. Inadvertent mistake that has occurred in uploading the wrong certificate though the correct details have been mentioned, is not such a mistake so as to deny a person of his chance of earning a decent livelihood. This view is being taken especially keeping in mind that the Commission was aware of his status

as the correct certificate was made available to them at the time of scrutiny of documents.

8. In LPA No.320 of 2019 titled as ***Haryana Staff Selection Commission through Versus Sarla and others*** decided on 22.02.2019, Krishna Murari, C.J. (as his Lordship then was in this Court) speaking for the Bench held as below:

“5. We cannot lose sight of the fact that in view of the prevailing socio economic condition in our country, every citizen is neither net savvy nor has a computer or laptop readily available for use. In these circumstances, when such a candidate has to submit an application online he has to be dependent upon the cyber cafes providing the net services. Being himself/herself not computer and net savvy the candidate has to depend upon the operator in the cyber café to fill in online form and in such a circumstance if any mistake occurs it would be wholly unrealistic and arbitrary to make such a candidate suffer. It is also to be taken note of that if an incorrect entry is made due to human error, there is no provision on the website of the Commission allowing correction in the online application form. In these circumstances, if a mistake is committed, there being no provision for carrying out correction, even if it is noticed subsequently, a poor candidate is to suffer for no fault.”

9. The ratio of the aforesaid judgment has been relied upon subsequently in LPA No.656 of 2021 titled as ***Sunita Rani Versus Haryana Staff Selection Commission*** decided on 12.5.2022 and ***Neeraj versus State of Haryana and another 2023(2) RCR (Civil) 443.***

10. Consequently the writ petition stands allowed. The petitioner who belongs to the EWS category and has the necessary marks, i.e 56 as against the last selected candidate with 51 marks to be appointed as ALM is held entitled to be recommended by the Commission for appointment as ALM. Since one post has been kept vacant for the petitioner under the orders of

this Court in this very writ petition, the respondent-Commission is hereby directed to recommend his case for appointment to respondent No.2-Nigam forthwith, who in turn would offer appointment to the petitioner, in case he fulfills all other eligibility conditions/criteria . The needful be done within a period of two months from the receipt of certified copy of this order. The petitioner would be entitled to all notional benefits.

(JAISHREE THAKUR)
JUDGE

12.05.2023

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