

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

CWP-4208-2018 (O&M)

Date of decision: 23.03.2023

Gulzar

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. R.K.Arora and
Ms. Saguna Arora, Advocates for the petitioner

Mr.Vikas Arora, AAG, Punjab

Mr. R.K.Arya, Advocate for respondent no.3

ANIL KSHETARPAL, J (Oral)

1. The petitioner prays for the issuance of a writ in the nature of Certiorari to quash the action of respondents no.1 and 2 in permitting respondent no.3 to change his category from the General category candidate to Physically Handicapped (Visually Impaired) category.
2. The relevant facts, in brief, are required to be noticed.
3. The Punjab Public Service Commission issued a recruitment notice inviting applications for 41 posts of Lecturer in Mechanical Engineering in the Department of Technical Education and Training. Out of the two posts reserved for Physically Handicapped category, one post one was reserved for the visually impaired candidates whereas second post was reserved for the hearing impaired candidates. The petitioner pursuant to the recruitment notice applied under the visually impaired category (76A) whereas respondent No. 3 submitted his application under the General category. As per the recruitment notice, the candidates were not permitted to change the category under any

circumstances. However, the Punjab Public Service Commission, in the facts of the case, permitted respondent No. 3 to make changes in his application enabling him to apply under the visually impaired category. Respondent No. 3, after having been selected, has been appointed by the appointing authority. Although the petitioner was at Sr. No. 1 in the merit list but on account of the change in the category of respondent no.3, he has been pushed back to serial No.2 and respondent No. 3 was placed at serial No. 1.

4. During the course of hearing, the State of Punjab was directed to file an affidavit after inquiring about the availability of a vacant seat. In compliance thereto, an affidavit of the Secretary, Punjab Public Service Commission has been filed. Paragraph 4 of the affidavit reads as under:-

*“It is also submitted by way of preliminary submissions that there is one post of Lecturer Mechanical Engineering reserved for Hearing Impaired is vacant due to no availability of candidates. As per para 6 of the instruction of Punjab Government, Department of Social Security dated 02.05.1997 attached **Annexure R-2/2** the reservation is interchangeable amongst the sub categories of the Physically Handicapped if candidate belonging to a category is not available. Therefore, vacant post of Hearing Impaired category for the post of Lecturer Mechanical Engineering could be offered to petitioner by the respondent no.1.”*

5. Learned State counsel admits that in between respondent no.3 and petitioner, there is no other candidate. It is also admitted that as per the instructions dated 2nd May, 1997, it is permissible to convert the post reserved for the hearing impaired to the category of the visually impaired. In the facts of the present case, it would not be appropriate to

set aside the selection and appointment of respondent No. 3, particularly when he is also visually handicapped but on account of permission to change the category, the petitioner has been deprived of his bright chances of appointment. Therefore, in the facts and circumstances of the present case, it is considered appropriate to direct the respondents to offer appointment letter to the petitioner, after converting the vacant post of hearing impaired category as per the instructions dated 2nd May, 1997 to that of visually impaired within a period of one month, from today. The petitioner shall be entitled to be appointed notionally on the date respondent No. 3 was appointed, however, he shall not be entitled to any financial benefits from the said date of appointment.

6. In view of the aforesaid facts and discussion, the writ petition stands disposed of. However, this order shall not be treated as a precedent as it has been passed in the peculiar facts of this case.

7. All the pending miscellaneous applications, if any, are also disposed of.

23.03.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE