

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(117)

CWP-19844-2023

Date of Decision : September 11, 2023

Lalita Rani

.. Petitioner

Versus

Haryana Staff Selection Commission

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. N.K. Nagar, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present petition has been filed with a prayer that the petitioner be allowed to change her category from “General” to “Economically Weaker Section” so as to consider her claim for appointment as a Staff Nurse, which post was advertised vide Advertisement No.15/2019 dated 07.09.2019.

2. Learned counsel for the petitioner very fairly concedes the fact that while applying for the post of Staff Nurse, the form filled by the petitioner clearly stated that the petitioner is competing in the General category.

3. Learned counsel for the petitioner submits that the said act was inadvertent error on the part of the petitioner as the petitioner was fully entitled for competing under the “Economically Weaker Section” and also possessed the valid EWS certificate and after the last date of filling of the

application form, realizing the said mistake, the petitioner had approached the respondents on various occasions to correct the said mistake but the same has not been done and the claim of the petitioner has only been considered in the General category.

4. On being asked as to whether, as per the terms and conditions of the Advertisement, the category under which an application is filled, can be changed, learned counsel for the petitioner fairly submits that as per the terms and conditions of the appointment, the category once filled, cannot be changed.

5. That being so, the prayer of the petitioner is contrary to the terms and conditions of the Advertisement, which are sacrosanct and are to be adhered by the respondents while making selection.

6. Not only this, as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.198 of 2005 titled as J & K Public Service Commission vs. Israr Ahmed and others, decided on 07.01.2005***, candidates who have chosen to opt for a particular category, cannot be allowed to change the said category later on and a fresh claim cannot be raised. Relevant paragraph 6 of the said judgment is as under:-

“6. We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for the selection as a candidate entitled to get reservation. He did not produce any certificate along with his application. The fact that he has not availed the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the preliminary examination as a general candidate and at the subsequent stage of the main examination he cannot avail the the reservation on the ground that he was successful in getting the required certificate only at a later stage. The nature and status of the candidate who

was applying for the selection could only be treated alike and once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make fresh claim. The Division Bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal.”

7. Keeping in view the above, the claim of the petitioner is not only against the terms and conditions of the Advertisement but also against the settled principle of law noticed hereinbefore, which cannot be allowed.
8. No interference is called for any interference by this Court.
9. Dismissed.

September 11, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes