

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 112

Civil Writ Petition No.18901 of 2023

Date of Decision: August 31, 2023

Virender Singh

..... PETITIONER(S)

VERSUS

State of Haryana & another

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Brijesh Kumar, Advocate, for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This petition has been filed seeking a writ of *certiorari* for setting aside the order dated 18.07.2023 (Annexure P-12), whereby the petitioner's candidature under "Ex-servicemen Dependent" category for the post of PGT (Sanskrit) has been rejected.

2. Learned counsel for the petitioner contends that the petitioner had inadvertently applied for the post in response to Advertisement No.4 of 2015, under the General category. It was a *bona fide* mistake, as the petitioner is a dependent of ex-serviceman, as is apparent from the certificate dated 17.04.2012 (Annexure P-1). He had made a representation (Annexure P-5) to the Secretary of the Commission also that he may be considered in Dependent of Ex-servicemen (DESM) category and not in General category. These facts have not been taken into account by the respondents while passing the impugned order, and he has wrongly not been considered under DESM category.

3. Heard.

4. As per facts apparent on record, the Advertisement No.4 of 2015 was notified on 28.06.2015, and in response thereto, the petitioner applied for the post under General category. He was issued roll number under the category, and appeared for the written examination also. After clearing the same, he was shortlisted for scrutiny of documents vide Notification dated 06.02.2017; it was held from 17.04.2017 to 20.04.2017, wherein he participated. The candidates twice the number of vacancies were called for interview on 30.09.2018, and the petitioner also figured therein as a General category candidate. He appeared for the interview, but remained unsuccessful in the result declared on 01.01.2019, as he scored lesser marks (107) than those of the last selected candidate in his category (114).

5. Earlier, the petitioner approached this Court by filing writ petition, CWP No.24352 of 2022, which was disposed of by directing the respondents to consider his representation, vide order dated 20.10.2022. In terms thereof, by considering the grievance raised, the respondents have passed the impugned order, dated 18.07.2023, stating that the petitioner was considered for the category he applied under and remained unsuccessful. His request for change of category cannot be entertained at this belated stage. Reference has been made to the Supreme Court judgment in *J & K Public Service Commission vs. Israr Ahmad and others*, 2005(12) SCC 498, holding that once the candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make a fresh claim.

6. In view of the facts aforesaid, the petitioner cannot be allowed to change the category. He himself applied under the General

category as he was entitled to, and his candidature was so considered. Only after remaining unsuccessful in the final result, he has sought to change the category he applied under, which cannot be permitted and has been rightly declined vide the impugned order. Even the representation referred to by the learned counsel does not advance the petitioner's case. It is undated, and raises a grievance that the petitioner applied under the DESM category but was wrongly considered under the General category. This is factually incorrect as it is apparent in the application form (Annexure P-4) that he applied as General category candidate only. Besides, mere submitting the representation does not entitle the petitioner to change of category he applied under, nor does it establish his *bona fides*.

7. In view thereof, there is no ground to entertain the petition.
8. Dismissed.

(Tribhuvan Dahiya)
Judge

August 31, 2023
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No