

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

(113)

CWP-22237-2023

Date of Decision : October 05, 2023

Suman Kumari**.. Petitioner****Versus****State of Haryana and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Ajay Kalra, Advocate, with
Ms. Suman Kumari-petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

Ms. Harpriya Khaneka, Advocate, for respondent No.2-HPSC.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance which is being raised is that the petitioner has wrongly been ousted from the zone of consideration for selection and appointment to the post of Assistant District Attorney in pursuance to the Advertisement No.14/2023 dated 22.02.2023 in the reserved category of Ex-servicemen/dependent of Ex-servicemen.

2. Learned counsel for the petitioner argues that initially the petitioner's name was included in the list of the candidates who were eligible to appear for the Subject Knowledge Test which was to be conducted but later on, vide notice dated 13.09.2023, a copy of which has been appended with this petition as Annexure P-6, the petitioner has been ousted from the zone of consideration on the ground that the petitioner is

not within the zone of consideration keeping in view the number of vacancies advertised for the Ex-servicemen or dependent of Ex-servicemen, hence, the respondents are liable to be directed to conduct a re-test for the petitioner for the Subject Knowledge Test so as to allow the petitioner to participate in the further selection process.

3. Learned counsel for the respondents, keeping in view the service of advance copy of petition, submits that in the present petition, the result of ESM category was revised on the basis of the direction given by this Court in CWP No.19865 of 2023 titled as Surender Kumar Vs. Secretary Haryana Public Service Commission, decided on 20.09.2023 and in the revised result dated 13.09.2023, the petitioner could not make within zone of consideration as, all the Ex-servicemen candidates were found eligible so as to participate in the Subject Knowledge Test and the candidates under the dependents of Ex-servicemen category i.e. under which the petitioner is competing, could not be given preference over an Ex-serviceman candidate. Hence, keeping in view the said fact, revised result dated 13.09.2023 (Annexure P-6) was issued whereby the petitioner, who was earlier declared as qualified for participating in the Subject Knowledge Test but now does not fall in the zone of consideration for appearing in the said test, which action of the Department is perfectly valid and legal.

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

5. In the present petition, the petitioner is claiming the consideration under the category of dependents of Ex-servicemen so as to compete for the post in question. As per the advertisement, the dependents of Ex-servicemen were to be considered in their respective category against

the posts reserved for ex-servicemen and were only eligible to be considered under the category of Ex-servicemen in case, any seat remains vacant after adjusting all the eligible Ex-servicemen candidates and in the present case, keeping in view the revised result dated 13.09.2023, as limited number of candidates were to be called for the Subject Knowledge Test keeping in view the number of post advertised under the ESM category, only the eligible Ex-servicemen candidates have been called for the further selection process to the exclusion of the dependents of ex-servicemen candidates. That being so, the claim of the petitioner that she has a right to be called for Subject Knowledge Test to the exclusion of the Ex-servicemen candidates, cannot be accepted.

6. The argument being raised by the learned counsel for the petitioner that the exclusion of the dependent of ESM candidates will only come at the time of preparation of the final result, cannot be accepted for the reason that in case a dependent of ESM excludes the Ex-servicemen candidate at the initial stage, the clause B of the Advertisement which is reproduced hereinafter, will stand violated.

“ b) Dependents of Ex-serviceman (DESM) candidates will be considered as General/ SC/ BC-A/ BC-B Category (their own category) candidates for all intents and purposes. However, in case of non-availability of suitable Ex-servicemen (ESM) of Haryana, their dependents sons and daughters of the same category who fulfill all the conditions of qualifications, age etc. prescribed for the posts in question will also be considered on merit against the reserved posts for ESM and this entitlement would be available to one dependent child only. Dependents of Ex-serviceman (DESM) of Haryana claiming benefit must have valid eligibility certificate issued by Zila Sainik Board on the last date of submission of online application form.”

7. Keeping in view the facts and circumstances mentioned hereinbefore, no irregularity is found in the action of the respondents in ousting the petitioner from the zone of consideration in the impugned notice dated 13.09.2023 (Annexure P-6).

8. No interference is called for by this Court.

9. Dismissed.

October 05, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No