

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

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CWP-38245-2018 (O&M)

Date of Decision: 09.03.2023

SURENDER KUMAR

... Petitioner

Versus

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks issuance of a writ in the nature of Certiorari quashing the notice dated 17.12.2018, vide which the petitioner was not called for the interview for the post of Trained Graduate Teacher (Physical Education), under Economically Backward Person under General Category (EBPGC).

Learned counsel for the petitioner submits that the petitioner belongs to EBPGC category; that against advertisement No.3/2015, the petitioner had applied for the aforesaid post under General Category; that the written test was conducted on 20.12.2015; that the result of the written test was declared on 20.04.2017; that the candidates were called for the scrutiny of the documents from 10.05.2017 to 12.05.2017; that the selected candidates were further called for documents verification on 27.06.2017 and 28.06.2017, but the petitioner was not called for the same; that the selected candidates were called for the interview on

24.12.2018 and that the petitioner moved a representation dated 27.06.2017 requesting to consider his EBPGC certificate. He further submits that despite said request letter, the case of the petitioner was not considered under the EBPGC category; that, thereafter, the petitioner approached this Court by way of the present petition and a Coordinate Bench of this Court, vide order dated 21.12.2018 provisionally allowed the petitioner to be interviewed and his result was ordered to be kept in a sealed cover and that vide order dated 03.04.2019, one post under the EBPGC category was kept reserved for the petitioner. Still further, it is submitted that the post in question is still lying vacant.

On the other hand, learned State counsel submits that the petitioner had applied for the post in question under General category; that the petitioner appeared in the written examination and thereafter for scrutiny of the documents; that the final result was declared and the petitioner was not selected therein due to lesser marks secured by the last selected candidate in General category and that when the name of the petitioner did not figure in the final result, he moved a representation to consider his case under EBPGC category instead of General category. He further submits that in the advertisement itself, it has clearly been mentioned that the candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application and if on verification at any time before or after the written examination or interview or appointment, it is found that they do not fulfill any of the eligibility condition, then their candidature will be cancelled. Still further, it is submitted that petitioner did not mention his category as EBPGC in

application form; that the EBPGC certificate (Annexure P-3) annexed with the petitioner was issued on 27.06.2017, after cutoff date i.e. 24.09.2015 and thus, the candidature of the petitioner cannot be considered under EBPG category.

I have heard the learned counsel for the parties.

From the record, it transpires that after written examination, scrutiny of documents and interview, the final result for the post in question under General Category was declared and the petitioner was unable to qualify the same. Thereafter, the petitioner moved a representation dated 27.06.2017 to consider his case under EBPG Category and also submitted his EBPGC Certificate (Annexure P-3) which is dated 27.06.2017 i.e. after the cutoff date of submission of online application form i.e. 24.09.2015.

A Coordinate Bench of this Court in CWP-15119-2016 titled as Shashi Vs. State of Haryana and others, decided on 22.05.2018, held that once a candidate has chosen a particular category, he cannot change the same at a later date. The relevant extract from the said judgment would read as under:-

“7. Perusal of the advertisement (Annexure P-1) clearly shows that a candidate can apply only once for a particular category of post advertised. It also makes it clear that no offline form is to be accepted. Another condition included in the advertisement is that incomplete application form would be rejected. Thus, a candidate is required to be very circumspect

while filling the application. Although the petitioner may have obtained the EBPB certificate before the extended date of submitting applications, she can not take benefit thereof as she had applied under the general category. Had she applied for the EBPB category and had failed to attach the certificate along with the application, the case may have been different. The Division Bench judgment of this Court in Usha Dhillon (supra) does not support the case of the petitioner as in the said case the computer had committed a mistake and the same was permitted to be corrected. The judgment of the Supreme Court in J&K Public Service Commission (supra) makes it clear that once a candidate has chosen a particular category, he cannot change the same at a later date'.

Similar view was taken by this Court in CWP-446-2019 titled as Buta Singh vs State of Haryana and others.

Once, the petitioner had opted for a particular category and also appeared in the written examination held, he cannot be permitted to rely upon a document issued post cut-off date.

Dismissed.

09.03.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*