

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114)

CWP-1361-2024
Decided on : 23.01.2024

Sakshi Jain

.....Petitioner(s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr.S.P.Arora, Advocate for the petitioner.

Mr. Saurabh Kapoor, Addl. AG, Punjab.

Ms.Sukriti Gupta, Advocate, for respondent No.4.

Mr.Parminder Singh Kanwar, Advocate, for respondent No.6.

G.S. Sandhawal, J. (Oral)

1. Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India is to treat the present petitioner as a Sportsperson representing the State of Punjab eligible under the Punjab Recruitment of Sportsmen Rules, 1988 for being considered for the post of Civil Judge (Junior Division)-cum-Judicial Magistrate under the Sportsperson Category. Prayer has also been made for taking a decision on the representation (Annexure P-10) moved by the petitioner addressed to respondent No.5.

2. Petitioner had applied against advertisement No.2022103 published on 06.09.2022 (Annexure P-2) in which 5 seats were reserved for Sportsperson quota and out of which 1 seat was reserved further for female candidate. Petitioner claims to be a resident of Chandigarh having studied in Chandigarh and has represented Chandigarh as a National Level Player in Table-Tennis and had won positions in the competitions with Gradation Certificate.

3. It is her case that the 4 posts are still vacant and 1 is under consideration with the respondents and she scored 525.06 marks. She successfully cleared the preliminary and mains examination and appeared in the interview on 01.10.2023 against Roll No.1837 and scored 525.6 marks and got 145 rank. However she had applied only as a General Category Candidate which would be clear from her pleadings and is now subsequently seeking consideration under the Sportsperson Category on the sole ground that vacant seats are available. Therefore, considering that Chandigarh is the capital of State of Punjab and the requirement for claiming reservation under the Sportsperson Category it would not be necessary to have represented the State of Punjab and thus the benefit should also be granted if she had represented the U.T. Chandigarh also, being the capital of State of Punjab.

4. The argument which is now sought to be raised might be attractive but the fact remains that the petitioner never, at any point of time, while applying for the said post, agitated for her grievance. She neither filed any representation at that point of time or approached this Court seeking the said benefit. It is only after having gone through the recruitment process and having remained unsuccessful in the General Category having the rank of 145 against the 52 posts for the General Category which were duly advertised, she has put-forth her case. The advertisement in question specifies under clause 13.2 that the candidate has to specify as to which category he/she wants to be considered and once opted cannot be changed under any circumstance. Reliance can be placed upon the observations made by the Apex Court in

Jammu & Kashmir Public Service Commission Vs. Israr Ahmad &

others, 2005 (12) SCC 498 wherein the Division Bench had allowed the candidate to change the category and it was noticed that the candidate had passed the preliminary examination as a General candidate and at the subsequent stage of the main examination, cannot avail the reservation on the ground that he was successful in getting the required certificate only at a later stage. Relevant portion of the judgment reads as under:

"7. 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 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.

No costs."

5. It is also settled principle that the advertisement or a prospectus issued has a force of law and reliance can be placed upon six Full Benches of this Court in **Amardeep Singh Sahota Vs. State of Punjab 1993 (2) PLR 212, Raj Singh Vs. Maharishi Dayanand University 1994(2) S.C.T. 766, Sachin Gaur Vs. Punjabi University 1996(1) S.C.T. 837, Rahul Prabhakar Vs. Punjab Technical University, Jalandhar 1997(3) S.C.T. 526, Indu Gupta Vs. Director of Sports, Punjab 1999(4) S.C.T. 113 and Rupinder**

Singh and others Vs. The Punjab State Board of Technical Education & Industrial Training, Chandigarh and others 2001(2) S.C.T. 726 have held to that effect.

6. In such circumstances, the petitioner was bound by the advertisement in question and now cannot claim the said benefit. It has also been averred that there are instructions that unfilled Sports Category seats which have gone vacant would have to be filled up from the General Category Candidates and the State is already considering the same and thus, the petitioner cannot clamor for the said benefit. The action of the respondents is as per the necessary instructions and therefore, the rights of other candidates in the General Category would also be jeopardized if the case of the petitioner is to be considered since apparently, the petitioner does not fall within the zone of consideration having the rank of 145 and therefore, the same cannot be expanded to that far. In such circumstances, we are of the considered opinion that the change of category at this stage at the fag end on account of the fact that the seats are not filled up is not permissible as per the settled principle.

7. Resultantly, in view of the above discussion, we do not find any ground to exercise our extraordinary writ jurisdiction and the present writ petition is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

January 23rd, 2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No