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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1667-2024

Date of Decision:25.01.2024

GURDEEP SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. M.S. Chauhan, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to consider candidature of petitioner for the post of Police Constable under ‘Ex-serviceman Schedule Caste (Balmiki/Mazhbi Sikh)’, Punjab category instead of ‘Ex-serviceman General’.
2. The petitioner pursuant to an advertisement applied for the post of Constable under category of ‘Ex-serviceman General’. The advertisement was issued on 31.01.2023 and petitioner filed online application on 21.02.2023. The petitioner appeared in the exam held on 18.08.2023. The respondent declared list of shortlisted candidates. The petitioner did not find his name in the said list and vide application dated 08.01.2024 requested the respondent to consider him under the category of ‘Ex-serviceman Schedule Caste (Balmiki/Mazhbi Sikh)’.
3. Learned counsel for the petitioner submits that petitioner

inadvertently filed application under the category of 'Ex-serviceman General' whereas he belongs to 'Ex-serviceman Schedule Caste (Balmiki/Mazhbi Sikh)'. If the application of the petitioner is considered under Ex-serviceman (SC), he would be eligible for the post whereas he has is unable to compete with candidates belonging to Ex-serviceman General category.

4. Learned State counsel submits that Clause 14 of the advertisement categorically provides that candidate should correctly fill all the details including 'category'. No request for any change in the application form could be entertained, however, a fresh application could be submitted before the final date for submission of application. The petitioner consciously opted category of Ex-serviceman (General) and at this belated stage, he cannot be permitted to change his category. The State cannot travel beyond the advertisement as well as rules governing the examination.

5. I have heard the arguments of both sides and with the able assistance of learned counsels have perused the record.

6. The petitioner concededly applied under the category of Ex-serviceman (General). Clause 14 of the advertisement prescribes procedure for online application. Sub Clause (vii) of the said Clause categorically provides that candidate should correctly fill all the details including 'category'. The said Clause, in case of mistakes permits a candidate to file fresh application with correct particulars, however, before the final date of submission of application. The said Clause is reproduced as below:

"14. ONLINE APPLICATION PROCEDURE

There shall be an Application Form for recruitment to

the post of constable in the District Police cadre of Punjab police.

Xxx xxx xxx xxx xxx

(vii) Candidates should fill all details, including the category, correctly in the online application form and submit the same only after ensuring that all the particulars/details are correctly reflected in it. No request (online or offline) for any change in the Application Form, after it is submitted, shall be entertained. However, a fresh online application can be submitted before the final date for submission of applications by paying the requisite fee. In case a candidate submits more than one application, only the latest application submitted by the candidate shall be considered.”

7. The petitioner filed application on 21.02.2023 and he appeared in written examination held on 18.08.2023. The respondent declared list of shortlisted candidates. The petitioner after declaration of result filed application dated 08.01.2024 seeking change of category. The advertisement permits correction of mistake, however, within prescribed time period. The petitioner could correct his mistake within given time, however, he, at this stage, cannot be permitted to change his particulars especially category which was most relevant factor. If the petitioner, at this stage, is permitted to change category, the sanctity of Clause 14 of the advertisement would be lost and there would be no end of litigation.

8. A two-judge Bench of Supreme Court in ***J & K Public Service Commission vs. Israr Ahmad and ors., 2005 (12) SCC 498*** has held that a candidate cannot be permitted to claim benefit of reservation after participating in the examination process.

In the said case, the petitioner after passing preliminary

examination claimed benefit of reservation. A single judge of High Court of J & K held that a candidate was not entitled to benefit of reservation, however, a Division Bench extended benefit of reservation. The Apex Court reversed judgment of Division Bench holding that a candidate cannot be permitted to claim benefit of reserved category after last date of submitting application. The relevant extracts of the judgment read as :

3. The first respondent thereafter challenged the selection by filing a writ petition and the learned Single Judge of the High Court of Jammu and Kashmir held that the first respondent was not entitled to the benefit of reservation based on SRO 126 of 1994 as he had not indicated in his application for the preliminary examination that he was entitled to such benefit. The writ petition filed by the first respondent was dismissed and he challenged the same by way of LPA (SW) No. D- 29 of 2002 and the Division Bench of the High Court of Jammu and Kashmir held that the first respondent herein in fact possesses the eligibility for being considered in the reserved category even before the date of advertisement and he submitted his proof only later and that by itself did not disentitle him from claiming the reservation. Accordingly, the LPA was allowed and the direction to treat him under the reserved category was issued. This is challenged before us by the Public Service Commission.

4. Learned counsel for the Commission submits that as the last date for submitting the application was 16-3-1999 the respondent did not produce the certificate claiming reservation nor did he indicate in the application that he belongs to that category. It was submitted that several other applications of similar nature were rejected by the Commission and the respondent's application also was treated alike and

the Division Bench erred in coming to the conclusion that he was entitled to get reservation. Counsel for the respondent on the other hand pointed out that though the first respondent did not avail of the benefit of reservation when he submitted the application for the preliminary examination he had submitted the application for the main examination in which he had clearly shown that he was entitled to get reservation as per SRO 126 of 1994 dated 20-6-1994 and he had also produced the certificate along with the application for the main examination. It is submitted that he had claimed the reservation for the main examination and he should have been treated as a reserved candidate in the main examination.

5. 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 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 of 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 of 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 a 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.”

9. The case of the petitioner is squarely covered by aforesaid judgment. In the case in hand, the petitioner neither before the last date nor before the date of examination approached authorities for correction of his category. The petitioner appeared in the exam under Ex-serviceman (General) category and on being declared unsuccessful under the said category, is claiming change of category. The claim of the petitioner, at this stage, cannot be countenanced.
10. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition sans merit and deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

25.01.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>