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

**CWP No.3595 of 2019 (O&M)
Date of Decision: 28.08.2024**

Manjeet Singh

...Petitioner

Versus

High Court of Punjab and Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Ms. Harita Panthey, Advocate for
Mr. Ishan Gupta, Advocate,
for the petitioner.

Ms. Balpreet Kaur, Advocate,
for respondents No.1 & 2.

Mr. R.S. Bajaj, & Mr. Sidakjit Singh Bajaj, Advocates,
for respondent No.3.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for setting aside the impugned order dated 16.01.2017 (P-13) passed by learned District & Sessions Judge, Sri Muktsar Sahib whereby post of Peon SC (Sportsman) category was converted to SC category.

2. Facts are not in dispute.

3. Petitioner is a retired employee from Municipal Committee. Office of District & Sessions Judge-respondent No.2 issued a public notice dated 30.09.2016 inviting applications for filling up 04 posts of Peon (2 General category, 1 SC category and 1 SC Sportsman category) and 01 post of Sweeper



under SC category. Petitioner applied for the one post of Peon in SC Sportsman category. In pursuance to interview notice dated 29.11.2016 (P-3), petitioner appeared in the interview, but ultimately, did not find his name in the list of successful candidates.

4. Upon information sought under the Right to Information Act, 2005, he was informed that for the post of Peon (SC) (Sportsman category), none of the candidates was found suitable and as such, the said post was filled-up from SC category candidates.

5. It is contended by learned counsel for the petitioner that he meets the required criteria for appointment to the post of Peon in SC (Sportsman) category, but the respondents vide impugned order dated 16.01.2017 (P-13) illegally converted the post to SC category, without considering the claim of petitioner and offered appointment to respondent No.3 under SC category.

6. On the other hand, while relying upon letter dated 1/55/2016-RS2/903710/1 dated 03.01.2017, issued by Department of Welfare (Reservation Cell), Punjab (R-1), it is contended by learned counsel for respondents No.1 & 2 that if a suitable candidate under the category of SC (Sportsman) is not available then the post can be filled from the general candidate of SC category. Accordingly, when a suitable candidate was not found in the SC (Sportsman) category, the post was filled from SC category.

7. Heard learned counsel for the parties and perused the paper-book.

8. The sole issue arising for consideration of this Court is:-

Whether the action of respondents No.1 & 2 in filling up the post of Peon from SC category on account of non-availability of candidate in SC (Sportsman) category is justified?



9. To answer the question posed, reliance can be placed on the letter dated 03.01.2017 (R-1) and relevant part of the same reads as under:-

***“GOVERNMENT OF PUNJAB
REHABILITATION DEPARTMENT
(RESERVATION CELL)***

XXXXXXXXX

“.....2. It has come to the notice by the above mentioned letter's Para-1 enclosed Enclosure-1 that schedule caste ex-servicemen and schedule caste sportsman is included in the 25% reservation of the schedule caste persons. If schedule caste ex-servicemen is not available then that post should be filled from Schedule Caste general pool (from schedule caste persons only). Similarly, if there is post reserved for the schedule caste sportsman and the schedule caste sportsman is not available then, that post should be given to the general applicant of the schedule caste category.”

XXXXXXXXX

A bare perusal of the above extract leaves no room of doubt that in case of non-availability of a suitable candidate from Scheduled Caste Sportsman category, the post can be filled up from SC category candidate.

Moreover, there is no challenge to the circular dated 03.01.2017 (*supra*) at the instance of petitioner for the reasons best known to him.

11. In view of the above, the answer to the question posed would be in the affirmative.

12. Consequently, there is no option, except to dismiss the writ petition.

13. Ordered accordingly.



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14.
- Original records be returned to the quarter concerned, forthwith.
- Pending application(s), if any, shall also stand disposed off.

28.08.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No