

2024.PIIIC.104250



CWP-14762-1998 (O&M)

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

**CWP-14762-1998 (O&M)
Date of Decision: 08.08.2024**

RAJESH KUMAR**...Petitioner****Vs.**

**BOARD OF GOVERNORS OF REGIONAL ENGINEERING
COLLEGE SOCIETY AND OTHERS**

...Respondents**CORAM:- HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Anshul Labana, Advocate
for the petitioner.

Mr. A.S. Virk, Advocate
for the respondent/University.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed seeking a writ of *mandamus* directing the respondent nos. 1 and 2 to grant benefit of reservation to the candidates belonging to the Scheduled Caste (SC) category, and appoint the petitioner as Lecturer in Civil Engineering on that basis.

2. Briefly, as per facts apparent on record, the respondent College issued advertisement no. 4/1998, Annexure P-1, inviting applications for four posts of Lecturer; one in Transportation Engineering (regular), two in Hydraulics and Irrigation (regular), and one in 'any specialisation' in Civil Engineering (against leave vacancy). The essential qualification for the posts was 'First Class Bachelor's degree in appropriate branch of Engineering/Technology'. Further, the advertisement provided that reservation preference for SC and Scheduled Tribes (ST) candidates will be



CWP-14762-1998 (O&M)

fifteen and seven and a half per cent, respectively. It was in the following terms:

Reservation preference for posts of Lecturers only who are considered fit will be 15% for Scheduled Caste candidates and 7½ for Scheduled Tribe candidates.

2.1 The petitioner, belonging to the SC category, applied for the post of Lecturer in Civil Engineering. The applicants were short-listed by a screening committee as per the criteria laid down. However, the petitioner was not short-listed for interview as he had not done M.Tech. in Civil Engineering with first class. Being aggrieved, he submitted a representation against it to the selection committee, which on its own allowed him to appear for the interview. Accordingly, the petitioner was interviewed, but could not be selected. He was placed at serial no. 4 in the order of merit for the post of Lecturer 'in any specialisation' in Civil Engineering (leave vacancy), as per selection committee recommendation dated 07.8.1998. Thus, being lower in merit he could not be offered the appointment, and the selected candidates were duly appointed. The petitioner remained dissatisfied as no one from the reserved category had been selected despite the reservation for SC category being there in the advertisement. In this background, instant petition was filed claiming the benefit of reservation.

3. Learned senior counsel for the petitioner contends that the College was bound to give fifteen per cent reservation for the advertised posts, and the petitioner was the only candidate belonging to SC category. He was found fit for selection also, accordingly, had the right to be appointed as such. He also contended that the College was violating the



CWP-14762-1998 (O&M)

reservation policy, as only one SC category candidate had been appointed in the faculty of Civil Engineering prior to issuance of the advertisement in question.

4. Learned counsel for the College, on the contrary, contends that the petitioner is neither entitled to appointment nor to the benefit of reservation. The College, at the relevant time, was following the policy of reservation prescribed vide office memorandum dated 28.11.1977, issued by the Ministry of Education and Social Welfare, New Delhi, as per decision of the Board of Governors (BoG) in its meeting held on 24.02.1978. The memorandum provided that before the beginning of each year the number of vacancies was to be determined faculty-wise, and the percentage of reservation was to be decided out of those vacancies. The relevant extract of the Memorandum reads as under:

(1) Before the beginning of each year, the Institute should determine the number of vacancies that are likely to occur during the year of recruitment. The percentage of vacancies to be reserved out of the total so determined will be the same as for equivalent posts in Central Government.

(2) The number of posts to be filled under the reserved category may be determined faculty-wise although no individual post may be designated as reserved. The advertisement for these posts should indicate that preference would be given to SC/ST candidates who are considered fit. On receipt of applications, the Institute may invite for



CWP-14762-1998 (O&M)

interview all SC/ST candidates who fulfill the minimum qualification prescribed for recruitment.

4.1. Learned counsel further contended that the advertisement in question had been issued in terms of the Memorandum, which required that preference was to be given to the candidates belonging to SC/ST categories to the extent of fifteen per cent. At that time only five posts, four regular and one temporary, were vacant in the faculty of Engineering and not even a single post fell to the share of SC category, since fifteen per cent of five would not constitute even one. He also contended that despite not having been short-listed, the petitioner was duly considered but could not be selected being lower in merit; neither the advertisement, nor the selection process pursuant thereto is under challenge before this Court. Besides, all the five advertised posts were filled up on the basis of recommendation of the Selection Committee. Accordingly, the petitioner cannot be considered for appointment at this stage.

6. Heard.

7. The petitioner was an applicant for the post of Lecturer in the Department of Civil Engineering in response to advertisement no. 4/1998. His candidature was duly considered by the selection committee, and was placed at serial no. 4 in the order of merit for the post of 'any specialization' in the Department of Civil Engineering. The policy of reservation in terms of Office Memorandum dated 28.11.1977, provided for fifteen per cent reservation in the form of preference to SC category candidates considered fit, against year-wise vacancies. It is not in dispute that the aforementioned five posts fell vacant in the relevant year. And the College did not provide



CWP-14762-1998 (O&M)

any reservation since not even one out of those five could have been reserved to give effect to the prescribed fifteen per cent reservation in the category. Apparently, the provision is for preference in reservation, and no post was required to be specifically reserved for SC category, nor was it done. The advertisement as such is not under challenge; nor has the policy/procedure of reservation prescribed as per the Memorandum been impugned. Therefore, the petitioner's claim for reservation and/or consideration for appointment as SC candidate cannot be entertained. Besides, he was duly considered by the selection committee, and was placed in the waiting list on the basis of merit for the solitary post of 'any specialization' in the Department. He cannot claim appointment against any other post also, as there is no challenge to the selection.

8. In view of the reasons recorded above, there is no merit in the petition and it stands dismissed.

9. Pending miscellaneous application(s), if any, shall stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

08.08.2024*kv*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No