

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

250

CWP-4890-2021 (O&M)
Decided on :18.04.2024

SOHAN LAL

.PETITIONER

Versus

STATE OF HARYANA AND ANR

. . . RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Sube Singh Kaushik, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner competed for group D post under BCA category, as advertised by the respondents vide advertisement No. 4/2018 dated 25.08.2018 but despite being higher in merit than the other candidates in BCA category, the petitioner has not been given better place of posting.

2. Learned counsel for the petitioner submits that in the final result for the post in question, the petitioner who was the top most candidate in the reserved category of BCA, was shifted to the general category as he had secured more marks than the last selected candidate in the general

category.

3. After the selection process was over, the selected candidates were given appointment on the basis of the option of posting submitted by them. But the petitioner has not been given posting as per option submitted by him on the ground that the petitioner has been given appointment to the post in question in the general category rather than in the reserved category hence, he has been treated as a general category candidate even qua grant of posting.

4. Learned counsel for the petitioner further submits that the candidates in the reserved category, who had lessor merit than the petitioner, have been given better posting as compared to the petitioner as the petitioner has been given posting by treating him as general category candidate. The prayer of the petitioner is that the petitioner be given the posting by comparing his merit with the reserved category of backward class not with the general category. Learned counsel for the petitioner submits that as per the merit list, the petitioner is entitled for the post as a Mali in the forest department where the candidate having lessor merit than the petitioner in backward class category has been appointed as a Mali in the forest department.

5. After notice of motion, the respondents have filed their reply wherein the facts are not in dispute but the respondents have stated that as the petitioner has been selected in the general category due to the high marks secured by him in the reserved category hence, he has been compared with the general category candidate for the grant of posting as well. Though the candidates in the BCA category who were lower in merit than the petitioner have been granted posting as a Mali in the forest department but the petitioner cannot be granted the same as he has been treated as a general

category candidate.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The petitioner competed in the reserved category of backward for a group D post. The petitioner has secured first position in his reserved category in the competitive examination and has also secured more marks than the last selected candidate in the general category candidate and keeping in view the said fact, the appointment of the petitioner was transferred from BCA to general category.

8. As per the criteria for allocating the department for the posting, the merit of a candidate is required to be seen and rather giving the better place of posting by treating the merit of the petitioner in the BCA category, the petitioner was given the post by treating his merit in the general category at the end.

9. Once, the petitioner competed in the reserved category and was only transferred to the general category on the basis of higher marks secured by him, the benefit of posting on the basis of merit in the reserved category could not have been taken away from him. Once, it has come on record that the candidates lower in merit in the BCA category have been appointed as a Mali in the forest department, the petitioner had a better right to claim on the said post in preference to the candidate who has lower merit in the reserved category. Merely that on the basis of higher marks, the petitioner was shifted to the general category but the benefit of posting on the basis of higher marks in the reserved category and the category of post for which the petitioner become eligible for appointment/posting could not have been taken from his purview.

10. It has gone un rebutted that the candidate lower in merit has been

appointed as a Mali in forest department, hence, the respondents are directed to appoint the petitioner as a Mali in the Forest Department from the day he has actually been appointed on the present post. His service rendered in the present department will be treated as a service in the department of forest for all intents and purposes.

- 11. The present petition stands disposed of in above terms.
- 12. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

18.04.2024

Riya

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No