

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

(118)

CWP-5627-2024

Date of Decision : March 11, 2024

Maninder Singh**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Lajpat Rai Sharma, Advocate, for
Mr. Vivek Khatri, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that the petitioner, who belongs to the reserved category of Physically handicapped-OH, has not been considered for the post of Multipurpose Health Worker (Male) by converting vacant post into PH-OH category, which is totally arbitrary and illegal.

2. Learned counsel for the petitioner argues that the petitioner competed for the post of Multipurpose Health Worker (Male) in pursuance to the Advertisement No.1 of 2015 dated 19.06.2015 (Annexure P-2) and out of the 27 posts, 9 posts were reserved for visually handicapped candidates, 9 posts were reserved for hearing impaired candidates and 9 posts were reserved for orthopedic disable.

3. Learned counsel for the petitioner further argues that the

petitioner was placed at Sr. No.1 in the waiting list in the category of orthopedically handicapped candidates but as certain posts reserved for hearing impaired and visually handicapped remained vacant, the said vacant posts should be converted into the category of orthopedically handicapped so as to grant the petitioner the benefit of appointment being at Sr. No.1 in the waiting list.

4. Learned counsel for the petitioner submits that the claim of the petitioner has wrongly been rejected on the ground that the posts lying vacant in the reserved category of visually handicapped or hearing impaired, have to be carry forwarded and are not to be given to the other candidates to be filled from the waiting list in the category of orthopedically handicapped candidates.

5. Notice of motion.

6. Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents.

7. Learned counsel for the respondents submits that keeping in view the instructions which have been issued on 25.04.2018 which have also been reproduced in the impugned order dated 26.02.2024 (Annexure P-13), any vacancy which is reserved for a particular category and could not be filled up due to non-availability of the suitable candidate, such vacancy is to be carry forwarded to the subsequent recruitment year and it is only in case, in the subsequent recruitment year also, the reserved post remained un-filled, then only the same can be converted into other category and in the present case, the post which is being claimed by the petitioner, is not re-advertised post after the selection process hence, the claim of the petitioner has rightly been rejected.

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

9. It may be noticed that the post against which the petitioner was competing, had initially been advertised as per Advertisement No.2 of 2011 but before undertaking the selection process, the said recruitment process was cancelled on 01.05.2015 thereafter, the posts have been again re-advertised by the Advertisement No.1 of 2015. Against one of the nine posts reserved in the category of orthopedically handicapped qua the post of Multipurpose Health Worker (Male) against which the petitioner competed, all the posts have already been filled up and the petitioner, who is at Sr. No.1 in the waiting list, could not be appointed whereas, all the posts reserved for hearing impaired candidates as well as visually impaired candidates could not be filled up. The petitioner is praying for converting the said vacant posts in the category of orthopedically handicapped so as to get appointment being at Sr. No.1 in the waiting list.

10. It is a conceded position that the conversion of a post is to be done as per rules and regulations/instructions issued by the Government of Haryana. As per the instructions issued by the Government of Haryana with regard to the change of post in the physically handicapped category, dated 25.04.2018, the post left vacant in one of the physically handicapped category, cannot be filled up from the other category and it is only in the subsequent year when the same post is advertised and then the same still remains vacant, the post can be converted and filled from other categories envisaged under the physically handicapped quota.

11. That being the legal position, once the post against which the petitioner is competing, has not been advertised and the selection process undertaken qua the post in question was for the first time as per the

Advertisement No.2 of 2011, the post which remain vacant in the reserved category of hearing impaired as well as visually impaired, cannot be converted to the category of orthopedically handicapped so as to grant the benefit of appointment to the petitioner.

12. Keeping in view the above, no ground is made out for any interference by this Court in the present petition.

13. Dismissed.

March 11, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No