

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CWP No.5839 of 2024(O&M)
Date of Decision:21.03.2024

Sukhwinder Singh

.....Petitioner

Versus

Punjab and Haryana High Court and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr.Dinesh Kumar, Advocate
for the petitioner.

Ms. Divya Sharma, Advocate
for respondent no.1.

LISA GILL, J(Oral).

1. Petitioner in this writ petition is aggrieved of rejection of his candidature submitted by him for recruitment to Punjab Superior Judicial Service pursuant to notification dated 14.11.2023, Annexure P-4. There is a further prayer for quashing Sub-Clause 6.3 of Clause 6 of Notification dated 14.11.2023, whereby benefit of reservation has been confined to *bona fide* domiciles/residents of the State of Punjab to the exclusion of Union Territory of Chandigarh.
2. It is submitted that petitioner being fully eligible for recruitment to the Punjab Superior Judicial Service, submitted his application pursuant to notification dated 14.11.2023. Petitioner statedly belongs to Ramdasia Caste, which is recognized as a Scheduled Caste under Constitution Scheduled Caste (Order) 1950. Certificate in this respect was issued by competent authority of Chandigarh on 11.04.1997, Annexure P-5. Petitioner, it is

submitted applied in the category of Scheduled Caste. Copy of application is attached as Annexure P-11. The requisite fee for reserved category candidates was deposited. Petitioner's candidature was however rejected on 12.02.2024 on the ground which reads as under:-

“Not submitted requisite fees being SC Chandigarh and mentioned in the application that not a domicile of Punjab.”

3. Learned counsel for petitioner submits that rejection of petitioner's candidature is absolutely illegal and arbitrary as petitioner's father was issued a Scheduled Caste certificate by District Magistrate, Jalandhar on 12.11.1962, Annexure P-6. Petitioner's uncle was issued the Scheduled Caste certificate from Chandigarh at the Chandigarh address of father of petitioner, who resided at the joint family property at SBS Nagar, Punjab. Petitioner's father obtained his schooling at Punjab and also cleared his matriculation examination from Phagwara in the year 1961. It is only in the year 1964 when father of petitioner was appointed as Clerk in PGIMER, Chandigarh that he started residing in Chandigarh along with his wife. Petitioner is stated to have purchased property at SAS Nagar Mohali in the year 2018. Petitioner's candidature it is submitted should be considered in the reserved category of Punjab itself because Chandigarh is the capital of Punjab and there is no separate recruitment in the Judicial Service Cadre insofar as Chandigarh is concerned. Even in U.T. Chandigarh, Ramdasia caste falls in the reserved category. It is thus prayed that this writ petition be allowed and petitioner be permitted to take the examination for recruitment to Punjab Superior Judicial Service under the reserved category.

4. Learned counsel for respondent no. 1 (on advance notice) has opposed this writ petition while submitting that in terms of clear-cut stipulations in the advertisement itself, benefit of reservation is admissible

only to *bona fide* domicile/residents of State of Punjab. It is further submitted that petitioner in his application form has stated his category to be of Scheduled Caste and against the question at Sr. No. xvii as to whether he is a *bona fide* domicile of Punjab, petitioner has written a categorical 'No'. Petitioner could thus not have been considered or given the benefit of reservation as claimed. The stipulated fee which was required to be deposited being a domicile of Chandigarh, though belonging to the Scheduled Caste category was not deposited by the petitioner. Therefore, his candidature was correctly rejected. It is thus prayed that this writ petition be dismissed.

5. We have heard learned counsel for the parties and have gone through the file with their able assistance.

6. There is no denial about the categorical stipulation in advertisement itself that benefit of reservation would be given to domiciles/residents of State of Punjab only. Admittedly, petitioner does not claim to be a domicile or resident of Punjab. At this stage, it is to be noted that petitioner is a candidate having first taken his chance, submitted his application form and thereafter on rejection challenged the condition in the advertisement. This is a course which is not permissible. It is furthermore a settled position of law that a person would be entitled to the benefit of reservation in the State of which he is resident/domiciled. In-fact it has been held by Hon'ble the Supreme Court in **Action Committee on issue of Caste Certificate to Scheduled Caste and Scheduled Tribes Vs. Union of India and another, 1994(5) SCC 244** that migrants are not entitled to claim benefit of reservation in the other State where they have migrated. In the Case of **Ranjana Kumari Vs. State of Uttrakhand and others, 2020(15) SCC 664**, it was held that merely because in the migrant State same caste is

recognized as Scheduled Caste migrant cannot be recognized as a Scheduled Caste of the Migrant State. A women was held not entitled to benefit of reservation after marriage in the State where her husband was living despite the fact that the husband also belonged to Scheduled Caste and particular Caste fell in the same reserved category in the State of Migration (**Haryana Public Service Commission Vs. Shweta Kashyap and another, 2019(3) SCT 214**). Thus, keeping in view the facts as above, it is apparent that benefit of reservation in the State of Punjab if at all would have been available to the father of petitioner and not the petitioner who was admittedly even born in the year 1979 at Chandigarh and who himself does not claim to be a resident or domicile of the State of Punjab. In this given factual matrix decision dated 21.02.2023 in LPA No. 1040 of 2018, does not come to the aid of petitioner.

7. We take note of the fact that it is mentioned in Para 25 of writ petition that petitioner should be considered to be domicile of State of Punjab for all intents and purposes. However, categorical stance of petitioner as per application form submitted by him is that he is not a domicile of State of Punjab. Such benefit if afforded to petitioner at this stage would also be discriminatory qua similarly situated candidates which cannot be countenanced.

8. Keeping in view the facts and circumstances as above, we find no ground whatsoever to interfere in this writ petition, which is accordingly dismissed with no order as to costs.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

March 21, 2024.

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.